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AN
INTRODUCTION

TO
The Old English History,

Comprehended in Three several

TRACTS.

The FIRST,

An Answer to Mr. Petyt's Rights of the Commons Asserted;
and to a BOOK Intituled, *Jani Anglorum facies Nova*; The
Second Edition very much Inlarged.

The SECOND,

An Answer to a Book Intituled, *Argumentum Antinorma-
nicum*, much upon the same Subject; Never before Published.

The THIRD,

The Exact HISTORY of the Succession of the Crown of
England; The Second Edition, also very much Inlarged.

TOGETHER WITH

AN APPENDIX

Containing several RECORDS, and a SERIES of Great
COUNCILS and PARLIAMENTS Before and After the Con-
quest, unto the End of the Reign of HENRY the Third.

AND A

GLOSSARY

Expounding many Words used frequently in our

Antient RECORDS, LAWS and HISTORIANS.

Published for the Vindication of Truth, and the Assistance of such as desire
with Satisfaction to Read, and truly Understand the Antient English Hi-
storians, and other Pieces of Antiquity.

By ROBERT BRADY, Doctor in Physick.

LONDON: Printed by Tho. Newcomb, for Samuel Lowndes, over against
Exeter Exchange in the Strand. MDCLXXIV.



The E P I S T L E
TO THE
A Candid R E A D E R.



B Have Intituled these several Discourses, *An Introduction to History*; for indeed so they are, if we observe the Things themselves, and not the Method. *Introductions* I know are Written after another manner; but as to the *Matter* here treated of, whoever reads our Old Historians, and hath
C not a true Understanding and Apprehension of it, neither can he truly, and as he ought, understand them, nor will he ever be able to *arrive* at the Knowledge of our *Ancient Government*, or of what Import and Signification the Men were that lived
D under it according to their several Denominations; of what Power, and Interest they were, what they did, and how they behaved themselves; nor who, nor what they were, that *contended* with our Ancient Kings about *Liberty*, and Relaxation of the Government, nor indeed what truly the
E Liberties were they contended for. This last particular will be more fully cleared, in the Preface to the first Volume of the *History of England*, and in the Reigns of King *John* and *Henry* the Third, which shall (God willing) be published
F next *Michaelmas* Term.

The true Originals of Things having been neglected and forgotten in many Nations, several Conjectures have been introduced in stead of them,

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which never had such beginnings, nor never were known or thought of at the time when they were said to be done or used, by such Men as in writing and reporting of them, have pleased their own Fancies, served an Interest, or persued an Humour, rather than Truth. A

The old *Romish Clergy* at first, in whose Management were all the Affairs of the Nation, out of Design, to Bowe the *Secular Government*, and make it *Truckle* under *Holy Church*, and by that means under themselves, published many Popular Notions concerning Ecclesiastick and Secular Liberty in those Antient Times, and raised up thereby the *Barons* and *Military Men*, to break the King's Power, and lessen his Authority, that by their Assistance they might obtain Dominion over him. C
These *Popular Notions* have ever since been kept up according to the sound of the Words they were first delivered in, by such as Succeeded those *Clergy-Men* in their *Places* and *Offices*. Though many of the Things then contended for, were either D
for ever sufficiently secured; and others not long after irrevocably vanished; and were all of such a Nature, or so Established, as afterward there could be no Controversie about them, yet the Words having been retained, and used, and interpreted according to vulgar Acceptation, 'tis scarce E
credible what *Mischiefs* and *Bloodshed* they have occasioned in *Successive Ages*, even to our own Days.

And upon these, and some *Parcels* of Sentences, some *Popular Scraps*, and *Shreds*, taken out of the *Beginning*, *Middle*, or *Later End* of a Period, F
without any respect to the Matter Treated of in Old Historians, or Records, have been built mistaken Notions, false Conceptions, and apprehensions

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stons of Antient Things and Story, and obtruded upon the World as the true sense and meaning of them.

A I esteem it a great Happiness and Blessing to the People of *England*, that they *injoy* more *Liberty* and *Freedom* than all the People in the World besides. I wish they had more, if there can any thing be added to it, that would not make them *Lawless* and *Licentious*, and the *Mobile* and *Factious* incontroulably insolent.

B Two sorts of *Turbulent* Men there are in the World, who under *plausible Pretences* have appeared for the *Liberty* of the People, or indeed the *Change* of the Government. That they might *invest* themselves with such Power and Authority, as might afterwards make them *submit* to their *Dictates*, *Wills*, and *Pleasures*, though never so *Arbitrary*, *Tyrannical*, *Injust* and *Cruel*; for in that all the fair and smooth Pretences of such Men do constantly terminate.

C One of these sort of Men preach to the People, D *That the Origin of all Power and Government is from them*; *That Kings or Magistrates derive their Authority from them*; *That they have none, nor more than what they give them*; *That they are their Servants, Instruments, Executors and Trustees only*, E *and accountable to them for Male-Administration, and may be Tried, Sentenced, Deposed, or put to Death by them, or such as they shall Impower or Authorize to that purpose, that is, themselves.* These Men are Pretenders to *Platonic* and *Eutopian* Governments, such as never had a *Real Existence* in F any part of the World, nor never can be practicable amongst any People, or in any Nation whatsoever; yet are specious *Baits* to hook in *Unstable, Unwary, Fluttering and Malitious* Men.

The

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The other sort are such as hold forth to the People, *Ancient Rights* and *Privileges*, which they have found out in *Records*, and *Histories*, in *Charters*, and other *Monuments* of *Antiquity*; by these Men the People are taught to prescribe against the Government for many Things they miscall *Fundamental Rights*; by these Men 'tis averred, that under the phrase of *Baronagium Angliae*, both *Lords* and *Commons* were Comprehended; That *Proceres* & *Magnates* are Words of large extent; That the *Plebeians*, and *Ordinary Freeholders* (according to the Modern Denomination) were such. That there were *Barones Regis*, & *Barones Regni*, *Milites*, & *Libere Tenentes qui de Rege Tenent in Capite*, & *Milites*, & *Libere Tenentes de Regno*; And, That the later were the Men of *Mark* and *Note* in the great Councils of the Kingdom. That the word *Baro* was applicable to the whole People, the Body of *Freeholders*, especially, as assembled in *Parliament*. That all *Proprietors* of Land, all *Probi Homines*, or *Bonae Conversationis*, came to great Councils as Members, in their own Persons; That all such were *Nobiles*. That *Ordinary Freeholders* often came to *General Councils* of the Kingdom, without *Special Election* or *Representation*; That upon a *Change* in the *Succeſſion* to the *Crown*, there might be *Extraordinary Conventions* of the People to declare their *Universal Consent*, for better assuring such *Succeſſors*; and That this was an *Elective Kingdom*, which as often as they have opportunity they cunningly insinuate, though they do not plainly assert it in terms.

By all which *ſly* and *malicious* *Insinuations*, and many more of the like *Tendency*, they endeavour to undermine the Government, and so insuſe Dan-

gerous

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gerous Notions of *Soveraignty* and *Power* into the Peoples Heads, which they *never had*, or *enjoyed*, nor can be *capable of managing* in any Government in the World.

A Any Man that shall observe, what the last Men craftily drive at, and *compare* it diligently with what the former assert, will not find much *Difference* in their *Principles* and *Designs*.

B For the defence of Truth, and the *Detection* of these Men, and for no other purpose, and of their *partial Citations*, *Falsity* in *leaving out* and *adding* what they please, *Mis-Applications*, *false Interpretations*, *wilful Wresting* and *abusing* of *Records*, and *History*, (seeing no other Person did *undertake* them) I have written these *Tracts* to *undecieve* the People, and to shew them, That really they were not *possessed* of these *Pieces* of *Soveraignty* and *Empire* *anti-*
C *ently*, nor of such *share* in the *Government*, as these *Unquiet, Tumultuous* Men endeavour to make them believe they had, and still ought to have.

D In the Name of God let the English People enjoy all their *Just, Due, Legal Rights, Liberties* and *Privileges*, and let them never be *disturbed* in the present Establishment of more Freedom to them, than all the Subjects in the World do enjoy, so long as they remain *Quiet* and *Obedient* to the *Go-*
E *vernment*; Let them enjoy every thing whereto the KING or His *Antecessors* have given their *Consent*, and that hath been *Allowed* and *Owned* by *Usage* and *Practice* many *Centuries* of *Years*, and found *Agreeable* to the *Interest* of *Prince* and
F *People*; for all *Liberty* and *Freedom* is *Founded* upon the *Ease, Happiness, Repose* and *Safety* of both: And when *Liberty* is *used* with *design* to *supplant* and *destroy* the *Government*, 'tis then *Sedition*, and
ought

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ought to be restrained by such *legal, prudent, and just Ways and Means* as the Government shall think fit, to obviate the *Designs and Contrivances* of such Men, and fully to *Establish and Secure* it self.

I have followed and traced these Men in all their *material and most specious Citations*, and do leave it to the *Indifferent and Judicious* Reader to judge, whether I have not sufficiently discovered their *Ignorance and partiality* in, or *wilful mis-application* of them; and also shewn their *Arts and Designs* (though at distance) to *Batter and Bomb* the Government, and *disturb* the *peace and quiet* of the Nation; especially if it be considered at what time these Men were *most busie* of themselves, if not *im-
ployed* by others in this Service.

As to my own *Citations*, if any Man thinks I have not been *every way faithful* in them, they are so *particularly* noted, as it may with the greatest ease imaginable be discovered, (unless happily the Printer hath mistaken;) and whoever shall *make* such *Discovery*, let him be as *severe* upon me as he please, I shall not take it ill, but rather *return* him *thanks* for his pains. Before the *use* of them, I considered again and again whether I *might* not be mistaken in their *true meaning*, and likewise considered all *Circumstances*, and compared them with other *Relations* of the *same Times and Things* where-
ever I could find them.

I shall not inlarge further upon the great *Use* and *Advantage* Those that read *Old Historians* may make of these Discourses, but leave that to the *Judgment* of *Understanding* Readers.

A FULL and CLEAR
ANSWER
TO A
BOOK,

WRITTEN BY
William Petit Esquire,

ENTITLED,
The RIGHTS of the COMMONS Asserted,
Printed in the Year 1680.

By which it appears,

That he hath *Mistaken* the *Meaning* of the *Histories* and *Records* he hath *Cited*, and *Misapplied* them: And that he hath *Added* to, or *Taken from* them, or *left Unrecited* such *Words* and *Matters* as he thought would either *Advance*, or *Destroy* his *Assertion*.

With a True *Historical Account* of the Famous COLLO-
QUIUM or PARLIAMENT, 49 Hen. III.

Together with

Some ANIMADVERSIONS upon a BOOK,
CALLED,

FANI ANGLORUM FACIES NOVA,

With many Additions to them both.

In the SAVOY,

Printed by T. N. for Samuel Lowndes, over against Exeter-Exchange
in the Strand. MDCLXXXIII.

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A N
A D V E R T I S E M E N T
T O T H E

A
Impartial and Judicious
B R E A D E R.

C I F I prove tedious to him, I must say, I could
not help it. For I have made more large
Recitals and Translations of some *Records*
and *Histories* than otherwise I would have done,
being forced thereto, by the *Authors* often Jumb-
ling, two *Records*, and *Different Parts* of *History*
together, and making but one of them. By his
Partial Citations and Expositions; By his Taking
D In, and Leaving Out, what he judged was For,
or Against him; and By his Publishing only Ends
and Shreds of *Records* and *Histories*, where he
found any thing, that did but sound like what he
Thought might maintain his Assertion. The *Re-*
E cords I have used, are Faithfully Cited; and like-
wise the *Historians*, who are such as lived in the
Times, when the Things I Vouch them for, were
Acted, or who are of the Best Authority or Credit,
or such as Lived very near the time of the Things
Done; whose Writings, in very many things, do
F agree with the *Publick Records*, as to the Matter
and Time, Though not to the Form and Compo-
sure; and This I Affirm from my own Collat-
ing, and Comparing of them.

THE INTRODUCTION.

P. 1.

MR. Peryt having produced Matter of Fa^ct only for the Confirmation of his Assertion, my principal Design in this following Discourse is to shew, That the Matter of Fa^ct was not such as he pretends and avers it to have been, and to discover the true meaning of our excellent English Records and Histories, for the benefit of such as intend understandingly to read them, and to detect his Partial Citations and Concealments of the greatest parts of them, he hath made use of, which would have destroyed his Assertion, and to rescue these Sacred things from Groundless and Designing Interpretations, I follow his own Method, and do affirm,

P. 1.

1. That the Commons of England Represented by Knights, Citizens, and Burgesses in Parliament, were not introduced, nor were one of the Three Estates in Parliament before the 49th of Henry III.

P. 2.

2. I affirm, That before that time, the Body of the Commons of England, or Freemen (as now understood, or as we now frequently call them) collectively taken, had not any share or votes in making of Laws for the Government of the Kingdom, nor had any Communication in Affairs of State, unless they were represented by the Tenents in Capite.

These two Propositions are plainly laid down, and contradictory to what he confidently avers he hath proved.

P. 2, 2.

To discover therefore and refute the unsoundness of his Assertions, and that what I affirm may appear to be true, I shall follow his course, and first by way of Answer to his, make good my second Position, before I answer his first Assertion; and do hope to evince, That he hath said nothing to prove, That during the British, Saxon, and Norman Governments, the Freemen or Commons of England, as now called and distinguished from the great Lords, were Pars Essentialis & Constituens, an Essential and Constituent part of the Witena-Gemote, Common Council, or Parliament in those Ages.

P. 4.

AN

A N
A N S W E R
 TO A
B O O K,
 WRITTEN BY
William Petit, &c.

C First, Under the British Government.

TO prove this Assertion under the *British* Government, our Author cites part of the Answer of Pope *Eleutherius*, to the Epistle of King *Lucius*, who (as 'tis fabled) sent to him for the *Roman* Laws to Govern his Kingdom by; and says, That the Pope, who could not be ignorant of the Constitution and Frame of the *British* Polity, writes back to him, *Habetis penes vos in Regno utramque paginam, Ex illis Dei gratia per concilium Regni vestri sume legem, & per illam, Dei potentia vestrum rege Britannia regnum.* These words by the frequent Texts of Scripture that follow in the Answer should be thus rendred, *You have with you in your Kingdom both the Law and Gospel, out of them by the Grace of God, and Council of your Kingdom take a Law, and by that in the Power of God Rule your Kingdom of Britain.* What is this to either of your Assertions? You say little else upon this Head. *What is this to the Commons being an Essential part of the British Councils or Government?* How doth it prove it? but besides the Author Sir *Henry Spelman* from whom he had this fragment, says, King *Lucius's* Epistle is no where to be found, and that the pretended Answer to it is a Forgery, and worthily for these Reasons, First, *For that Lucius had no need to write to Rome to Eleutherius for the Roman Laws, when they were Established here before that time in Britain under the Roman President. For every Colony of the Romans was but an Image of the Mother City with like Holy Rites, like Courts, Laws, &c.* And the famous *Roman* Lawyer *Papinianus*, the chief Minister of Justice under *Geta* had his Tribunal at *York*. *Tacitus* says that the *Britains* affected *Roman* Language and Eloquence, *Roman* Habits, and frequent use of the Gown, *Roman* Pleasures, Diet, &c. built Temples and Courts of Justice; and 'tis most probable they also affected

Roman

P. 4.

Concil. Tom.
 1. f. 31. 34, 35.
 The Answer
 to King *Luci-*
us's Epistle a
 Forgery.

Lips. de Mag-
 nitud. Rom.
 lib 1. c. 6.
 Dio Cass. fol.
 858.
 In vita agric.
 c. 21.
 The *Britains*
 affect *Roman*
 Mann- rs and
 Customs.

Roman Laws for which the Language and Rhetorick were most useful. Secondly, For that this Answer ascribed to Eleutherius makes Lucius Monarch of Britain, and takes no notice of the Roman Dominion here. Thirdly, The word *Manuteneere* used in it, is of Norman Extraction, and a legal word brought hither by the Normans many hundred years after Eleutherius his being Pope. Fourthly, The places of Scripture cited in this Answer are taken out of the Translation of St. Jerome, who lived almost two hundred years after Eleutherius.

P. 4.
The Govern-
ment of the
Britains not
certainly
known by
Mr. Petit.

P. 5.

C. 12.

The State of
the Question,
p. 3 & 7.

Immediately after this Citation, he adds, *But what the Laws and particular Government of the Britains were is very uncertain, because the Histories of their Country (if any were) could not be found, &c.* How then can this Author know that the Commons made an Essential part of their Government, when he knows not what the Government was, which yet in the next page he says is certain and not to be denied that in the Elder time it was so, and for this Reason because Xiphilin out of Dio Cassius says in the Life of Severus, *Apud Britannos populus magnâ ex parte principatum tenet*: With the Britains the People had a great share in the Government; be it so, yet 'tis very probable these were the great People, the Chief amongst the Britains; and that too when the British Monarchy was baffled, distracted, and destroyed by the Roman Power. Tacitus informs us otherwise in the Life of Agricola, an hundred years before Severus; *Britanni olim regibus parebant* (says he) *nunc per principes factionibus & studiis trahuntur*. In times past the Britains obeyed their Kings, and lived under Monarchy. Now they are drawn into Factions and Parties by their Chiefs and Great Men; and by the time of Severus some of the Governments might degenerate into a Populacy or a Compound Government of Aristocracy and Democracy; but if so, it makes nothing for this Gentleman, *he having undertaken to prove that under our British, Saxon, and Norman Monarchies the People distinguished from the Nobility, or as he calls them great Lords, were an Essential and Constituent part of their great Councils and Government.*

A

B

C

D

E

F

Secondly,

Secondly, *Under the Saxon Government.*

A From the *Britains* he proceeds to the *Saxons*, who he says when they made themselves Master of the *British* Nation, brought their Country Laws with them; of which there can be no doubt (as I shall make it clear upon another occasion (but not their popular Government) and brings the Authority of *Tacitus* to prove that the Commons were an Essential and Constituent part of their Common-Council: *De minoribus rebus Principes consultant, de majoribus omnes, ita tamen ut ea quoque quorum pene plebem arbitrium est, apud Principes pertractentur.* Of lesser matters the Chief of the People Consult, of the greater All; yet so as those things of which the lowest part of the People are Judges, are first treated of by the better sort; and these were the Councils of the *German People in General*, not of the *Saxons*, which name is not to be found in all *Tacitus*; but what if it be granted, that those people which were afterward called *Saxons*, were Governed by such Councils? was not this Government a Democracy? and the People so far from not having their Votes and Shares in these Councils, as only they had Voices in them, and if any had any more power here than others, they were the Priests, who were a sort of *Chairmen* in them, *Commanded silence*, and had a *Coercive power*, *Silentium per Sacerdotes, quibus tum & Coercendi jus est, imperatur.* In these Governments no man can doubt of the Suffrages of the People; but under such as he mentions, our Author would scarce be contented to live, where the Priests bare so much sway, where there were no *Cities* or great *Towns*, but only scattered Houses and Habitations by Rivers, Fields, and Woods, made of Dirt, or Clay, Arms of Trees, and Stubble, where there was no *Literature*, especially amongst the People, nor scarce *Civility*, where there was no Cloathing but with Garments made of Beasts Skins, no Food but Milk, Pulse, and Flesh, without Art or Cookery, where there was no Propriety in Lands, no Money, no Work for Lawyers, as he will find, if he reads on in *Tacitus*, and the 6th Book of *Cesar's Commentaries*.

E These Councils which were held by the small Popular Governments in old *Germany*, (for to such Governments they must be referred, seeing they frequently were convened on certain Days, either in the New or Full of the Moon, unless some fortuitous and sudden matter happened) are the Platform he mentions in the next page. When he says the *Saxons* under a sole Christian Monarch still continued and kept their Ancient *Wittenagemotes* or *Parliaments*, wherein they made Laws, and managed the great Affairs of King and Kingdom, according to the Platform of their Ancestors; and to evidence this he pretends many instances might be given, but produces only three or four.

His first instance is in a Common Council, called by *Ethelbert*, which *Spelman* mentions thus, *Anno Dominica incarnationis 605. Ethelbertus Rex in fide Roboratus Catholica una cum Berta Regina filioque ipso Eadbaldo ac reverendissimo prasule Augustino Caterisque optimatibus*

P. 6.

De mor. German, c. 11.

The Priests had the chief management of the German Popular Governments. Ibid.

In those Governments no Literature, no Civility, Cities, Towns, Propriety, &c.

Ibid.

P. 7.

P. 7. Spel. Concil. vol. 1. fol. 126.

A great Council called by Ethelbert, A. D. 605.

Vide, here in
a great Coun-
cil held by
Ethelbert King
of Kent, A. D.
605.

Lamb. fol. 148.

Sir Hen. Spel-
man had his
Story out of
that Auctuary
as appears by
the Citation
in his Margin.
Mr. Petyt
takes his in-
stances from
Parcels of an
idle Story.

The Fabulous
Story of King
Ina.

timatibus Terræ Solentitatem Natalis Domini Celebrant Cantuariæ, Convocato igitur ibidem Communi Concilio tam Cleri quam populi. In the year of our Lord 605. King Ethelbert being confirmed in the Catholick Faith, together with his Queen Berta, and his Son Eadbald, and the most Reverend Bishop Augustin, and the other great men of the Land, did celebrate the Solemnity of the Nativity of the Lord at Canterbury, having assembled a Common Council there of the Clergy and People, or Laity, for so *Populus* signifies here, and always does when *Clerus* and *Populus* are only used together, and thus contra-distinguished; then they are Expressive of two different Estates or Conditions of Men or Christians, the Clergy and Laity, or Secular men, and those were *optimates terræ*, the chief men of the Land, as before expressed; neither was this Council held under a sole Saxon Monarch (as he states his Assertion, and brings this first instance to prove, That the Commons were an Essential and Constituent part of the Common Councils under sole Saxon Monarchs;) But under Ethelbert King of Kent only, and that but eight years after Augustins coming hither, and above Two hundred years before the seven Kingdoms were united into one Monarchy.

The second and third instances being indeed but one and the same, he picks out of an idle Story in the additions to, or surplufage of the 35 Law of Edward the Confessor, and to be found in Sir Henry Spelman in the place he cites, but suspected, and not approved by him. I must cite the whole Tale, to let the Reader see what Instances he useth, and how he applies them; which is to be found in the following words in the Law before cited. *Ina Rex Anglorum qui Electus fuerit in Regem per Angelum, & qui primo obtinuit Monarchiam totius Regni hujus, post Adventum Anglorum in Britanniam, primus enim Rex fuit Coronatus Anglorum & Britonum simul manentium in Britannia, post adventum Saxonum Germania, cepit enim in uxorem suam Gualam nomine propter quam vocata est Wallia illa Terra, quæ quondam vocabatur Cambria; Bigamus enim fuit, cepit autem cum ultima uxore sua Cambriam & Cornubiam, & Coronam benedictam Britannia quæ fuit ultimo Cadwallado Regi Britannia, Et universi Angli qui tunc temporis extiterunt, uxores suas, ceperunt de Britonum genere, Britones uxores suas, de illustri sanguine & genere Anglorum hoc est de genere Saxonum. Hoc enim factum fuit per commune Consilium & assensum omnium Episcoporum & Principum Procerum Comitum, & omnium sapientum, seniorum & populorum totius Regni, & per præceptum Regis Ine prædicti. Multi vero Angli ceperunt uxores suas, de sanguine & genere Anglorum Germania, & quidam Angli ceperunt uxores suas de sanguine & genere Scotorum, proceres vero Scotorum, & Scoti fere omnes, ceperunt uxores suas de optimo genere & sanguine Anglorum Germania; Et ita fuerunt tunc Temporis per universum Regnum Duo in Carne una, & taliter constituit rectum conjugium (& Delevit fornicationem & immunditiam à regno) & recta judicia pro stabilitate Regni, & confirmatione populorum, benigna sedulitate, & tali modo effecti fuerunt gens una, & populus unus per universum Regnum Britannia miseratione Divina.*

Which Fictitious nonsense is thus Translated word for word; Ina, King of the English, which was elected King by an Angel, and who first obtained the Monarchy of this whole Kingdom, after the coming

- ing of the *Engliſh* into *Britain*, for he was the firſt Crowned King of the *Engliſh Britains*, living together in *Britain* after the coming of the *Saxons* of *Germany*; for he Married *Guala* by name, from whom that Land was called *Wales*, which was ſometimes called *Cambria*; he was twice Married, and had with his laſt Wife, *Wales*, *Cornwal*, and the Bleſſed Crown of *Britain*, which was *Cadwalladers* the laſt King of *Britain*. And all the *Engliſh* to a Man took their
- A Wives from the Race of *Britains*; and the *Britains* their Wives from the illuſtrious Blood and Stock of the *Engliſh*, that is, of the Stock of the *Saxons*. For this was done by the *Common Council* and *Aſſent* of all the *Biſhops*, *Princes*, *great Men*, *Earls*, and of all the *Wiſemen*, *Seniors*, or *Aldermen*, and *People* of the whole *Kingdom*; and by the command of King *Ina* aforeſaid. But many of the *Engliſh* Married into the Blood and Race of the *Engliſh* of *Germany*, and ſome *Engliſh* took their Wives from the Blood and Stock of the *Scots*,
- B but the *Great Men* of the *Scots*, and almoſt all the *Scots* took their Wives from the beſt Stock and Blood of the *Engliſh* of *Germany*; and ſo there were at that time through the whole *Kingdom* two in one *Fleſh*, and thus he conſtituted true *Wedlock* (and extirpated *Fornication* and *Uncleanneſs* out of the *Kingdom*) and right *Judgments*, for the ſtability of the *Kingdom*, and *Confirmation* of the *People*, by a kind *Care* and *Diligence*, and ſo they were made one *Nation*, and one *People* through the whole *Kingdom* of *Britain* by *Divine Mercy*.
- C

- This whole Story is very idle, (nor ſhould I have much taken notice of it, but to let the World ſee what *Hiftories* he *Trades* in.) Firſt here is King *Ina* elected by an *Angel*; who is bound to believe that? Then *Ina* who was King only of the *West-Saxons*, is here ſaid to be *Monarch* of this whole *Kingdom*, and firſt Crowned King of the *Engliſh* and *Britains*; a meer *Invention*: It appears not to be ſo in any *Hiftorian*; *Geoffrey* of *Monmouth*, *Caradac* of *Lancarvan*, *Humfrid Lluid*, and *David Powel* the four famous *Britiſh Hiftorians*, are either ſilent in this matter, Judge it to be ſuſpected, or affirm *Ina* to be only King of the *West-Saxons*; next, 'tis here ſaid he Married *Guala*, Daughter to *Cadwallader*, who was his laſt Wife, from whom *Wales* had it's name, and had with her as by *Inheritance*, *Wales*, *Cornwal*, and the *Bleſſed Crown* of *Britain*; a direct *Forgery*. For firſt, to let *Guala* paſs (whoſe very exiſtence
- D
- E *H. Lluid* judgeth to be a *Fiction*) *Wales* never had its name from her, but from the *Saxon*, *Wealh*, which ſignifies a *Stranger*; And both the *Britains* and their *Language* being *Strange* to the *Saxons*, they called them *Wealhs*, or *Strangers*, having driven them into thoſe parts of *Britain*, now called *Wales* and *Cornwal*, as ſeveral of our beſt *Britiſh* and *Engliſh* *Hiftorians* inform us.

- Secondly, *Ina* began his *Reign* *An. Dom.* 689. and was neither
- F King of *Britain*, or *Wales*; For at that time ¹ *Eſhelred* the Son of *Penda* was King of *Mercia*, and after him *Cenred*; ² *Alfred* or *Ealdfrith* was King of *Northumberland*. ³ *Withred* King of *Kent*. And in the year 710. *Ina* and his *Kinſman* *Nun* fought with *Gerent* King of *Wales*. And beſides theſe inſtances all our *Hiftorians* agree, That ⁴ *Egbert*, who began his *Reign*, *An. Dom.* 800, 73 years after the death of *Ina*, was our firſt *Saxon* *Monarch*; The *ſiſtitious non-*

B

And of the grand League of the *Britains*, *Scots*, and *Piſts*, the Author mentions, p. 8, 9.

Wales had not it's name from *Guala*. D. ſcript. of *Wales*, p. 2. Som. in *Gloſſ.* in verbo *Walli-cus*. But from the *Saxon* word *Wealb*. H. Lluid, D. Powel, W. Lambard, and Mr. Camden. *Saxon Annals* and *Florent.* *Wigorn*. in that year.

¹ *Saxon Annals*, A. D. 704.
² *Ibid.* A. D. 705. *Bedeſ.* Eccl. *Hiftor.* f. 345. 347.
³ *Sax. Ann.* A. D. 694. 625.
⁴ *Ibid.* A. D. 710.
⁵ *Ibid.* A. D. 800.

ſenſe

The Inter-marriages of the British, English, and Scots, which Mr. Petit calls the Great Union, are fictitious Non-sense.

P. 8, 9.

P. 8.

Concil. vol. 1. fol. 220. The Tale of Guala not allowed by Sir Hen. Spelman.

* See Monast. Angl. vol. 1. f. 14. n. 40 to the same purpose. King Ina and his last Wife, Ethelberg, both died in Monastick Habits.

Nota.

P. 9. fol. 75. A great Council, A. D. 905. procerum & populorum.

Why the word *Fidelium* is thus turned, see Glossar.

sense of the *Intermarriages* between the *British, English, and Scots*, is not worthy any serious mans notice; and yet this Gentleman calls them a *Grand League and Union* between the *Britains, Saxons, and Picts*, and grounds his third *Instance* upon it, saying, That *Grand League and Union* was concluded and confirmed, *per commune Concilium & assensum omnium Episcoporum, Procerum, Comitum, & omnium Sapientum seniorum & populorum per preceptum Regis Ina*. The very words he hath taken out of the *Body* of this *Fable* to serve his purpose, which he cites both in this and the forgoing *Instance*. And that he might the better make two instances out of one, and *Deceive* his *Reader*, he cites *Bede's Ecclesiastick History*, lib. 1. for the Report of this *League and Union*, where, if he finds it, he hath better luck than I have.

Now what follows, but that if this *Story* be idle and fabulous, it would be as idle a thing for any man to think, there was ever so grave, so solemn an *Assembly* convened, to contrive, frame, and ordain it: and the truth is, this Gentleman, if he had pleased, might have seen this same *Council* rejected as it were by his own Author *Sir Henry Spelman*, *De secundo seu ultimo hoc conjugio Ina Regis, &c.* concerning this second or last *Marriage* of *Ina* King of the *West-Saxons* (saith he) with *Guala* the pretended Daughter of *Cadwallader* King of the *Britains*, and from thence the name of *Cambria* being changed into *Wales*, I find no mention of it in any approved Author, or that *Ina* had any * other Wife than *Ethelburg*, which was certainly his last, and she, as appears by her name, a *Saxon*; for when he at *Rome* took upon him the Habit of a *Monk*, she was made a *Nun*, and at last *Abbess* of *Barking*, in which Habits they both died; and adds further, that for the Time and Authority of this *Council*, he could say nothing. And I do affirm, That of the many *Councils* collected in this Volume by him cited, there is not the word *populus* to be found either in the Title, Preface, or Body of any of them, except only in this spurious one, or any thing that tends towards the proof of the *Commons* of those times to have had any share of making *Laws* in those *Councils*.

The fourth *Instance* he hath out of the *British Antiquities*, A. D. 905. *Plegmundus Cantuariensis Archiepiscopus una cum Rege magnifico cognominato Edwardo seniore, Concilium magnum Episcoporum, Abbatum, fidelium, Procerum, populorum in Provincia Serbilozum Conbctant, &c.* Unde salubriter constitutum est, in hac Synodo, ut pro duobus Episcopis, quorum unus Wintonia, alter Sireburnia sedem habuit, Quinque crearentur Antistites, ne grex Domini pastorum curâ orbatus, Luporum Laniena & voracitati subicerentur. That is in the year of our Lord 905. *Plegmund* Archbishop of *Canterbury*, together with the magnificent King *Edward*, surnamed the *Elder*, called a great *Council*, of the *Bishops, Abbots, Tenants in Capite* or *Military Service, Noblemen* and *People* in the Province of the *West-Saxons*, when it was wholsomely ordained in this *Synod*, That instead of two *Bishops*, one whereof had his Seat at *Winchester*, the other at *Sherborn*, there should be *Five* created, lest the *Flock* of the Lord being without *Pastors*, should become a prey to voracious and devouring *Wolves*.

The

A The occasion of this Council, as 'tis storied, was a chiding and threatening Letter from Pope *Formosus* to King *Edward*, That if there were not Bishops appointed in such places as there had been formerly, both he and his should be subject to his *Malediction*. *Qua de causa* (says the *British Antiquities* in the same Folio from whence this Instance is taken, N. 30.) *Edwardus Rex Synodum predictam Nobilium Anglorum congregabit cui presidebat Plegmundus*. For which cause (to wit, as 'tis there said for fear the Pope should curse him and his Subjects) King *Edward* called the foresaid Synod of *English Nobility*, wherein *Plegmund* presided; Here his own Author tells us in few words, the meaning of the long Title of this Synod, which just before he had mentioned, viz. that the *Bishops, Abbots, Fideles, Proceres, & Populus*, were all *Nobiles, No. lemen*, That is the *Ecclesiasticks* and *Laics*, or the *Bishops*, and *Lay-Nobility*, as will be made more evident in this Discourse hereafter, and not the *Vulgus, Commons*, or ordinary sort of People.

Vid. *Monast. Angl.* vol. 1. f. 220. col. 2.

Populus interpreted by the Relator, and in the Relation of the same Council.

B And to this effect *Malmsbury*, the Manuscript in the *Bodleian Library* cited by *Dugdale*, and the MS. in the Treasury of the Records and Evidences of the Church of *Canterbury*, cited by Sir *Hen. Spelman*, all report of this very Council, That *Edwardus Rex congregavit Synodum Senatorum gentis Anglorum cui presidebat Plegmundus, &c.* That King *Edward* convened a Synod of the *Senators*, (in *Saxon* the *Aldermen*) of the *English Nation*, That is, such as were usually called to such Councils, which were only the *Nobiles* and great Men, for ought yet appears from this Instance. But further, all these Authors say, this Synod was called upon a Letter the King received from Pope *Formosus* in the year 905. There was but one Pope *Formosus*, and he died *December 14. 895.* ten years before this Synod is said to be called, and so perhaps there was never such a Letter written, nor such a Synod called, and consequently no such Title of a Synod. For all these Authors (to whom I appeal) report nothing else done in this Synod, then making or naming five Bishops, as is above related; Though our Author affirms there were several Laws then made, which if he can, he ought to make good to save his Credit.

De gest. Reg. fol. 26. a. n. 30, 40. *Monast. Angl.* vol. 1. fol. 220. col. 2. n. 10. *Concil.* vol. 1. fol. 387. Earls and great Officers of the Kingdom.

Onuphr. Chro. Pontif. Rom. fol. 27. 'Tis probable there was no such Council, A. D. 905.

P. 10.

E After these Instances, 'he says, *William* of *Malmsbury*, calls a *Saxon Witten-Gemote*, * *Generalis Senatus & populi conventus*. There is no need to be taken how our old Monks and Historians stiled the *Saxon Witten-Gemotes*, or their great and *Common Councils*, for the same Authors expressed them sometime one way, some time another; nor were they ever exact and curious in observing and noting the Title or the *Constituent parts* or *Members* of them: our Author himself hath reckoned up above forty Denominations of the *Saxon Witten-Gemotes*, or great *Councils* and *Parliaments*, and might have given us many more; and if he will frame an Argument from the Appellations of them, it must be against himself; for amongst those he hath mustered together, there are not above two or or three he can pretend to make use of, and they, truly understood, signifie nothing to his purpose; all the other are directly against him; as the Reader may note if he please.

* De gest. Reg. lib. 3. fol. 56. a. n. 30. No heed to be taken how the old Monks and Historians stiled a *Saxon Witten-Gemote*. As appears by his own shewing, p. 97.

P. 10. vid. Glossar.

Gloss. fol. 261.
col. 1 p. 10. ut
supra.

See Folk-mote
in the Glossar.

LI. Gul. 1. c.
52. LI. Edw. c.
35. in Auctar.

P. 12.

The Prefaces
of the Saxon
Laws declare
what sort of
people were
the Constitu-
ent parts of
their Wittena-
Gemotes.

Saxon Annals
in those years,
Lamb. Saxon
Laws, fol. 1.

* 'Tis in the
Saxon, *Æw*
Nuptia, but
seeing there is
no Law for
Marriages a-
mongst these,
I took it to be
misprinted for
Æ Leges, and
have so tran-
slated it.

(a) Lamb. fol.
22.
Ælfrid began
his Reign, A.
D. 871.
Ibid. fol. 36.

Ibid. fol. 41.
He began his
Reign, A. D.
900.

To this he adds the Description of a *Folk-mote* or Convention of the People, cut of Sir *Hen. Spelman*, Conceals the Title of it, and imposeth it upon his Readers as a *Wittena-Gemote*, a Convention of the Nobles or Wisemen. This being the same with the *English Saxons*, that a Parliament is with us, and called at the *Will* of the *King* in *Contingent Difficulties*, or for making of Laws, whenas the *Folk-mote* was at least *annual*, and met upon the same certain Business. So much of the Description, as he useth, runs thus, The *Chief* of the *Kingdom* met, as well *Bishops* as *Magistrates*, and *Free-men*, they consult of the Common safety, of Peace and War, and Promoting the Common profit or Benefit. He leaves out of this Description the great Design of this *Folk-mote*, which was to Swear Fealty or Fidelity to the King, to serve him faithfully, and defend all his Rights against his Enemies and Strangers; and picks out of it what he thought would be most for his purpose. From these Fragments, and doubtful Expressions (of which his Instances consist) It is apparent, he says, and past all contradiction, that the *Commons* in those Ages were an Essential part of the Legislative Power in making and ordaining Laws.

We have many of the *Saxon Laws* extant made during the Reigns of several of our *Saxon Monarchs*; in the Prefaces whereof, we are told, by what *Authority*, what sort of *People*, and by whose advice they were made. Why did not this Gentleman raise his Proofs from hence? Why did he leave the Kings High-way and walk in by-paths? to find and cull out some *slight Sentences* and *careless Expressions* that sound like something he would assert, and leave all the substantial and valuable Instances behind him which are contrary to his Assertion. What I find in the *Saxon Laws*, I shall briefly recite in opposition to what he maintains.

First, *Ina* who began his Reign *An. Dom.* 689. and ended it 728. in the Preface to his Laws says, *I Ina by the Grace or Gift of God, King of the West-Saxons, with the Advice and Instruction of my Father Kendred and Hedde my Bishop, and Erchienwold my Bishop, and all mine Aldermen, and Tham Ylderstam Witan Minre Theod, the principal or chief Senators or Wisemen of my Nation, and also the great Assembly of Gods Servants (the Clergy then so called) meditating the Health of our Souls, and upon the Estate or Establishment of our Kingdom, have Established Right * Laws, and Right Government through our Nation.*

* *Ælfred* after him, by the advice and assistance of his Wisemen *Mid Witena Getheate*, surveyed all the Laws of *Ina*, *Offa*, and *Ethelbert*, and such as he liked, he ordered to be observed, and others he caused to be laid aside, and then shew them to all his *Wives*, *Noble*, or *Wisemen*, who liked they should be observed. Also in the League between him and *Guthrun*, it is thus recorded, *This is the Peace that Ælfrid King, and Guthrun King, and all the English Wites, and those of the East-Angles have declared.*

The *Constitutions* between *Edward* the Elder, and *Guthrun*, were approved by the *Wites* or *Wisemen* on both sides.

Ethelstan

Aethelstan made his *Laws* in the *Micel Synod* at *Greatan-Leage*, and there was *Wulshelm* his Archbishop, all his *Optimates*, *Noblemen*, *Wites*, or *Wisemen*, by him Convened.

Ibid. fol. 53.
He began his
Reign, A. D.
924.

King *Edmund* deliberated and made his *Laws* by the advice of his *Wites* or *Wisemen*, both Ecclesiastick and Laics.

Ibid. fol. 58.
He began his
Reign, A. D.
940.

A King *Edgar* ordained his *Laws*, with the advice of his *Wites* or *Wisemen* only.

Ibid. fol. 62.
He began his
Reign, A. D.
959.

King *Ethelred* and his *Wites* made his *Laws* only.

Ibid. fol. 88.
A. D. 979.

King *Cnute* or *Canute* made his *Ecclesiastick* and *Secular Laws* by the advice of his *Wisemen* or *Wites* only.

Ibid. fol. 97 &
107.

B Besides these, I shall present the Reader out of History with some other of the great *Councils* or *Witena-Gemotes* in the *Saxons* time, by which he may understand whether 'tis probable they consisted of *Nobles* and *Commons*, or *Nobles* only.

He began his
Reign, A. D.
1016.
From History
'tis clear of
what people
the *Witena-
Gemotes* con-
sisted.

C *Withlaf* King of *Mercia* signed his large *Donation* to *Croyland* Abby, before the *Bishops* and *Great Noblemen* of all *England*, who met at *London*, *An. Dom.* 833. to consider how to prevent the *Danish* Piracies.

Ingulph's Hist.
fol. 488. n. 30.
Withlaf was a
Tributary,
and under the
Power of *Eg-
bert, Dominus
ejus*, ibid. n. 50.
He was Tri-
butary to *E-
thelwulf*.

Bertulph King of *Mercia* his Successor confirmed and enlarged that *Donation* before the *Bishops* and *Nobles* of his whole *Kingdom*, being the *Common Council* of his *Kingdom*, with the consent of that whole *Council*, *A. D.* 851.

Ibid. b. n. 40.
ibid. 489. a. n.
30.

D *Edred* King of all *England*, gave the *Monastery* of *Croyland* to *Abbat Turketul*, and his *Monks*, by his *Charter* dated, *In Festo Nativitatis B. M. Virginis An. Dom.* 948. *Cum uniberis magnates Regni per Regium Edictum Summoniti, tam Archi-Episcopi, & Episcopi & Abbates, quam ceteri totius Regni proceres & optimates Londonis Conventissent ad tractandum de negotiis publicis totius Regni.* That is in the *Feast* of the *Nativity* of *Blessed Mary* the *Virgin* in the year of our *Lord* 948, when as all the *Great Men* of the *Kingdom*, were summoned by the *Kings Edict*, as well the *Arch-Bishops*, *Bishops*, and *Abbats*, as other *Noble* and *chiefest Men* of the whole *Kingdom*, and met at *London* to treat of the publick *Business* of the whole *Kingdom*.

Ibid. 490. a. n.
20. 50.
Ibid. fol. 497.
a. n. 40. 50.
Note who
were *Magna-
tes Regni*.
*Totius Regni
proceres & op-
timates*.

E Where are the *Commons* to be found in any of these *Great Councils*, or *Witena-Gemotes*, or any that Represented them? Here are only mentioned *Arch-Bishops*, *Bishops*, *Abbats*, *Aldermen*, *Wites*, *Great Men*, and *Chiefest Men*, *Noble Men*. These were all the orders of *Men* that were *Constituent* parts of these *Great Councils* or *Gemotes*. And if the *Commons*, as now taken and understood, ever were *Members* of them, they must be comprehended amongst the *Wites* or *Sapientes* the *Wisemen*; But that it cannot probably be so, I shall note:

No *Commons*
to be found in
the *Saxon*
great Coun-
cils or *Witena-
Gemotes*. Nor
any that Re-
presented
them.

The *Com-
mons* not com-
prehend-
ed amongst
the *Wites* or
Sapientes in
the *Saxon*
Councils.

First,

First, That most of the *Saxon Laws* in their Prefaces are said to be made, and ordained by their Kings, with the advice and assistance of their *Wites* or *Wisemen* simply, without mentioning any particular *Orders* of *Men* whatsoever. And when any *Ranks* or *Degrees* of *Men* are particularly mentioned, they are only *Arch-Bishops*, *Bishops*, *Aldermen*, *Great Men*, *Wites*, *Chief-men*, *Noble-men*, as before rehearsed, both *Ecclesiastick* and *Laick*.

A

Secondly, I shall Note, that it cannot be denied but in every one of these *Witena-Gemotes*, *Diocel Synods*, *Diocel Gemotes*, or *Great Councils*, where the *Laws* are said to be made only by the *King* and *Wites* or *Sapientes*, without particularizing any *Degrees* of *Persons*, the *Bishops*, *Abbats*, and *Great Clergy-men*, *Aldermen*, and *Gereves*, were there at the making of them; and also the honorary *Thegnes* or *Thanes*, and the *Judges*, if any there were of the higher *Clas*s, other than *Bishops*, *Aldermen*, and *Gereves* or *Prepositi*.

B

And, Thirdly, I shall Note, that it follows from thence, that these all joyntly were the *Sapientes*, where there are only *Wites* or *Sapientes* in general named, without reciting any particular *Orders* or *Degrees* of *Men*.

See *Sapientes*
in the Glossary.

This is clear of it self, yet for the greater satisfaction of any that can doubt of it, I shall in the *Glossary* give many particular *Examples* of the meaning of *Wita*, *Witan*, *Sapientes*, &c. out of the *Saxon Laws*, and our approved ancient Authors, by which it will manifestly appear, That the *Commons*, especially as now taken and understood, cannot be comprehended under those Words.

C

See vit *Æl-*
fred, lib. 2. in
the Epilogue
fol. 124.

Yet notwithstanding what is here, and will be further cleared and proved in the *Glossary*, by giving the true meaning of the Words *Witan*, *Wites*, or *Sapientes*, That they in the *Saxon Witena-Gemotes*, were only *Arch-Bishops*, *Bishops*, *Masse-Thegnes*, or *Dignified* and *Great Clergy-men*, *Aldermen*, or *Comites Kings-Gereves* or *Prepositi*, *Kings-Thegns*, *Thanes*, or *Ministers*, his *Counsellors*, *Judges*, or *Magistrates*. If this Gentleman can shew from good Authority (better than any he hath yet produced) That any of the *Commons* sate in these *Great Councils*, at least to Represent the *Body* of the *Commons* of the *Saxons*, I will submit, and yield, That during the *British* and *Saxon Governments*, the *Freemen*, or *Commons* of *England*, as now called and distinguished from the *Great Lords*, were an Essential Constituent part of the *Witena-Gemotes* or *Common Councils* of those Ages; as this Gentleman avers, and labours to prove by such Arguments, as I hope I have fully answered.

D

E

F

William

William the Conqueror.

A From the Saxons we proceed to the Normans, where I find this Gentleman, as indeed there are many more, mightily possessed with the **Lenity** of William the Conqueror, for such he must be notwithstanding what is said by him, That he disown'd his Conquest, or rather submitted his Government and Scepter to the Saxon Law, and from this or nothing, he infers the Commons to be an Essential part of the great Councils, but with what consequence the Reader is to judge; however I will examine the easiness and kindness of William in denying the length of his Sword, and the Arguments he brings to confirm his Opinion; I leave his ridiculous Notation of the word B Conquestor, and pass to the Reasons for his Opinion.

P. 17, 18, 19, 20, 21, 22, &c.

William the First obtained this Land by Conquest, and Governed it accordingly.

First, he says, 'tis recorded in Domesday Book, that King William had certain Lands in Demesne, the Lands which were in the hands of King Edward, and intituled, **Terre Edwardi Regis**, and other Lands which were forfeited by him, by those who took part with Harold, intituled **Terre Regis**. This he hath out of Sir John Davis's Irish Reports, fol. 41. a. b. And it is a great mistake; for C there is no such Title in that Book as **Terre Regis Edwardi**; Of **Terre Regis** there is, first in every County in the top of the Leaves, which were the Lands of the Conqueror; for the truth of this I appeal to the Books. Here also he affirms King William kept the Lands of King Edward in his hands or own use, as Edward had done before him, which is as true as the other; for Roger Earl of Shrewsbury, as Earl and Governor of Shropshire, had many Houses in Shrewsbury, and 47 Berwites (Hamlets or Villages) that belonged D to the County, besides very many other Lands, a great part of the County which *Rex Edwardus tenebat*, King Edward held. **Hugo de Pore** had many Lands which were King Edwards in Hantscire, and many others through the whole Book of Domesday, to which again I appeal.

P. 23.

Can any man forfeit his Lands to a Stranger, a Conqueror that could not pretend Title but by Violence and Conquest.

No such Title in Domesday Book as *Terra Regis Edwardi*. Vide Domesday Scyropshire *terra Comitiss*. Hantscire *Terra Hugon de Port in Fordring-bridge Hundr*. Domesday, fol. 44. b.

E But if all this were true, how doth it prove William No Conqueror, or his Assertion.

But his huge Argument is the **Famose Legend**, and **Trite Fable** of Edwin of Sharnborn, told, says Camden, by all such as would have William to have possessed England by Pact and Bargain with the People, and not by Right of War, or the Sword. The Story as he hath it here, and as Sir Edward Coke often, Sir John Davis, and others have it, is thus. Edwin of Sharnborn, who had lost his Estate at Sharnborn by the Conquest, and being given to William de Warrenna, came before the Conqueror and Pleaded, that he never was against the King, either before, or after he came in, and by the Kings order had his Estate again; Sir William Dugdale in the first Tome of his Baronage, hath this Story otherwise, and says, That notwithstanding the Kings Mandate, all he could get was to become Tenant to Warren, and William de Albins of part of his own Land, under certain Services, and he is there called Edwin the Dane, and

Britain, fol. 350. The Legend of Edwin of Sharnborn.

Fol. i § col. 1. out of the Book of the Family of Sharnborn.

Bracton, lib.
1. c. 11. n. 1.
Fleta, lib. 1.
c. 8. n. 2.
How the Sax-
ons held their
Lands both
before and af-
ter the Con-
quest.
fol. 6. n. 10.

This Survey
was begun in
the 14th, and
finished in the
20th of his
Reign.
Vid. Terr. Wil-
lielmi de War-
ren & Episcopi
Baiocens. in
Norff.
Edwin no
Proprietor
in Norff.

P. 26.

The way and
manner of the
Pleas in
Domesday
Book.

and this (if any) is most likely to be true, being taken out of the Book sometime belonging to the Family of the Sharnborns. Here we see he applied himself to William, but got not the Propriety of his Estate; what he obtained was but to hold it from others; and this was then a common practice, as Bracton and Fleta, two of our most ancient Lawyers, and one of them at least a Judge, do inform us. That at the time of the Conquest, there were Freemen, that held their Possessions Freely, by Free Services and Free Customs; and when they were thrown out of them, afterwards returning to them, received their own, and the very same Tenements or Possessions, to hold in Villanage by performing Servile works, but such as were certain and nominated; to this may be added, what Mat. Paris says, that King William gave liberally to such as were with him in the Battel of Hastings, when he Conquered England; and that little which was left, he put under the Yoak of perpetual Servitude: yet further, as to this particular Report of Sharnborn, there could be no such thing, for his name is not to be found as any Proprietor in Norfolk, or in Sharnborn in Domesday Book, or the Conquerors Survey, and the Owners of Sharnborn, which are there only to be found, are William de Warrenna (from whom this Story says it was restored to Edwin) Odo Bishop of Bajoux Bernerius Arbalistarius and William de Pertenai; whence it is evident, that Warren and others were possessed of these Lands in the 20th of the Conqueror, not long before he died, and no Edwin to be found as Proprietor of any of them, or other Lands; nor is the name of William de Albin, or William Pincerna to be found as a Proprietor in Norfolk, or in Domesday, though this SS. of the Family of Sharnborn says he had that Village and several Towns thereabouts given him by the Conqueror; by which it appears, that this Report is groundless.

Our Author says this is cited almost as the only Case and Act of favor the Conqueror did; and adds, that for men to think so is a great mistake, and that he could give many Instances of the like Nature out of Domesday Book. But if he finds this there, or any one Plea, or Grant of the like nature, instead of many he speaks of, I will allow him to be a man of a very sagacious Invention; Pleas there are many between Man and Man, and between the King and others, but none like this. I shall give an example or two to illustrate them.

Clamores in Northtreding in Eurvicshire In Limberge clamat Ivo Tal-
lebofc super Regem vi. Bovat. Terre Dicunt homines Comitatus quod
ipse debet habere terram & Rex Socam. That is, in Limberge Ivo
Tallebofc Claymes upon the King vi. Bovates or Oxeganges of Land;
the men of the County (the Jury) say that he ought to have the
Land, and the King the Soke or jurisdiction upon it. Clamores in
West-treding super Drogonem clamat Norman de Adreci iij Bovat.
Terre in Normanby, dicit Wapentachium quod ipfius debet esse terra, &
Drogonis Soca. That is, Norman de Adreci claims upon Drogo iij.
Oxeganges of Land in Normanbe, the Wapentach says that Land
ought to be his, and the Soke Drogo's. And many the like; all
which Judgments and Controversies were amongst the Normans,
as may be easily perceived by their Names, and the Judgment of the
Court,

Court, Hundred, or Wapentack most commonly was grounded upon the **Sight of King Williams Seal, his Writ or his Commissions**; by which, or some of them, it appeared to be so, as I could make it out, if it were proper to do it in this place.

A The 3d Argument he useth upon this Head, is the Assertion of a great Lawyer and Judge in *Edward the Third's* time, admitted and agreed as a Rule of Law and truth by the Judges, and transmitted to Posterity, being spoken in an Objection made in a *Quo Warranto* against the Abbat of *Peterborough*. *Le Conqueror*, (saith the Judge) *ne vient pas par Ouster eux qui avoient Droiturel possession, mes de Ouster eux queux de leur tort avoient occupie ascun terre en Disheritance del Roye & son corone*. That is, the **Conqueror** came not at all to out those which had right Possession, but to out those which by their wrong doing had occupied any Land in Disheritance of the King and his Crown. I shall not inquire whether this be admitted as a Rule of Law, or whether the Judge that said this, believed it himself: Sure I am, that if this Gentleman be so well acquainted with **Domesday Book**, as he pretends to be, he cannot believe it, nor any one that ever perused it but one half an hour.

C Were the 793 Mannors **Robert Earl of Hereford** in *Normandy*, and *Cornwal* in *England* had given to him by **King William**, only Lands that had been kept from the Crown? Were **Alan Earl of Britain**, and **Richmonds** 442 Mannors given him by the *Conqueror*, Lands with-held from the Crown? Were **Geofrey Bishop of Constance** his Lands 280 Mannors, Lands of the like nature? Were all the **Normans** great Estates in every County such Lands as those? In **Domesday** the names of the great Proprietors are entred in every County before the particular description of their Lands, and mention of their under Tenants: What became of all the Lands of the **Saxon Nobility**, their **Great Earls, Chanes, Middle Chanes, &c.** Were they not given to the **Normans**? Did they not all take their Title from **King William** and the *Sword*?

E Had the **Saxons** all of them invaded the **Crown-Lands**, and made up their Estates out of them? Were the **Whole County of Chester**, given by the *Conqueror* to **Hugh de Abincis** his Kinsman, and a **Norman**, Crown-Lands? Were the greatest part of **Shropshire** given to **Roger de Monte Comerico** a **Norman**, Crown-Lands? Whoever reflects upon these things, must acknowledge this Judge to have been very ignorant in the *History* of this *Nation*, or that he spoke the words out of *Design*, and that which way soever it happened, his Assertion was not a fit Foundation to build a Rule of Law upon. And 'tis a great Argument he studied, and knew only *Popular*, and *Lucrative Law*, and not the *Constitutions* of the Nation before his own time. What remains in this Discourse about the *Conqueror*, That he claimed not by the *Sword*, but was elected, &c. which he would fain prove out of the Fragments of some Authors that lived at some distance of time from his coming hither, I shall prove from undeniable Reason and Authority, that he Governed the Nation as a *Conqueror*, and did so live, and did so take, and repute himself to be.

P. 26.
Judge Sharde-
lowe.
A Rule of
Law and truth
averted by
our Author.

Large Estates
given to the
Normans by
the *Conque-
ror*.
It appears by
Enumerating
the several
Towns and
Mannors
they possessed
in several
Counties.
Domesday in
several Coun-
ties.
And they
were no
Crown-
Lands.

Had *Sharn-
burn's* Plea
been good,
doubtless
there were
many in these
parts and Pos-
sessors of these
Estates, that
might have
said they ne-
ver opposed
Duke *William*
either *Confilio*
vel *auxilio*.

William first
Governed as a
Conqueror,
and did so
take and re-
pute himself
to be.

The chief Justice and other Officers of the Law all Normans.

It was so until it was altered by Stat. 36 Ed. 3. c. 15. and this is the true Reason why all our old Laws and Pleadings were in Norman French.

Reading de finibus, p. 3.

Ibid.
Our ancient English Laws came from Normandy. Spelm. Gloss. fol. 218.
Our ancient Tenures were from Normandy. See Grand Custom throughout Scriptor. Norman. fol. 1037. Cum Willie. - mus hanc terram primo devicis non solum in possessiones victorum, sed in Matronas & virgines insanire cepit. Ead. Hist. Nov. fol. 57. n. 40.
* Leicester's Cheshire, and * Transcript. of Domesday, there fol. 431.
William I. gave most of the Estates of the English to his Normans, &c.
* Append. n. 10.

This appears first by his bringing in a *New Law*, and imposing it upon the People, and 'tis clear he did so: The *Justiciaries* or *Chief Justices*, the *Chancellors*, the *Lawyers*, the *Ministerial Officers*, and *Under Judges*, *Earls*, *Sheriffs*, *Bailiffs*, *Hundredaries*, were all *Normans*, from his first coming until above 100 years after, as I can make it out, by particular Instances, and undeniable Reason, were not the Catalogues too long to be here inserted. If therefore the *Justiciaries*, *Chancellors*, *Earls*, *Sheriffs*, *Lords of Mannors*, such as heard Causes, and gave Judgment were *Normans*, if the *Lawyers*, and *Pleaders* were also *Normans*, the *Pleadings* and *Judgments* in their several *Courts* must of necessity have been in that *Language*, and the *Law*, also the *Norman Law*, otherwise they had said and done they knew not what, and Judged they knew not how; especially when the Controversies were determined by *Military Men*, *Earls*, *Sheriffs*, *Lords of Mannors*, &c. that understood not the *English* Tongue, or *Law*; or when the chief *Judiciary* himself was a *Military Man*, as it often happened, and understood only the *Norman Language*, and 'tis hardly to be believed these men would give themselves the trouble of learning and understanding the *English Law* and *Language*; yet perhaps some men may think they came by the knowledge of the *English Law* Sir Edward Coke's way, by *Revelation*, who galled with an Argument (that he could not answer) that our *English Laws* were the *Norman Laws*, tells us the *English Laws* cannot be said to be written in the *Norman Tongue*, for the *Laws of England* are (*Leges non scripte*) *Laws* not written, but divinely cast into the hearts of Man.

Secondly, Though we have many *Laws* and *Customs* from the *Northern* People, and North parts of *Germany*, from whence both *Saxons* and *Normans* came: yet after the *Conquest*, the Bulk and Maine of our *Laws* were brought hither from *Normandy*, by the *Conqueror*. For from whence we received our *Tenures*, and the Manner of holding our *Estates* in every respect, from thence also we received the *Customs* incident to those *Estates*. And likewise the quality of them, being most of them *Feudal*, and enjoyed under several *Military Conditions*, and *Services*, and of necessary consequence from thence, we must receive the *Laws* also by which these *Tenures*, and the *Customs* incident to them were regulated, and by which every mans right in such *Estates* was secur'd according to the nature of them. But from *Normandy* (and brought in by the *Conqueror*) we received most, if not all our ancient *Tenures*, and manner of holding and enjoying our *Lands* and *Estates*, as will appear by comparing our *Ancient Tenures* with theirs.

And further, he took away from the *English* their *Estates*, and gave them to his *Normans*; and this he did from his first coming in; *Fitz-Osborn* was made *Earl of Arundel* and *Hereford* at his first coming in, and was *Lord of Erattevil* in *Normandy*, and established the *Laws* of that *Town* at * *Hereford*. *Alan Earl of Britain*, had all *Earl Edwins Lands* given to him at the *Siege of York* three years after his arrival; and he had distributed most of the *Lands* of the *Nation* to his *Normans*, long before the *Surbey* was begun, and by that infallible Record it is clear, * that he gave near all the *Lands* of the *Nation* to his Followers, and very little or none to the *English*.

English, who held what they had by a new Title, and new Services from the Conqueror, or his great Lords, or became Tenants to, or Drudges upon their own Lands, as we heard before from *Bracton* and *Fleta*. Here is enough to satisfy any unbiassed Person, that the Conqueror did not lay by his Sword after the *Battle of Hastings*. Yet, for further satisfaction; I shall confront his Authority, with the Testimonies of such Authors as lived in the time, and could not but

A

Eadmer a Monk of *Canterbury* at the time of the Conquest, a great Companion to *Arch-Bishop Lanfranc*, and was with him when the News came of the Conquerors death, writes, That *William* designing to establish in *England* those Usages, and Laws, which his Ancestors and he observed in *Normandy*, made such Persons *Bishops*, *Abbats*, and other *Principal men*, through the whole Nation, who could not be thought so unworthy, as to be guilty of any reluctancy, and Disobedience to them; knowing by whom, and to what they were raised; all Divine and Humane things he ordered at his pleasure. And after the Historian hath recounted in what things he disallowed the Authority of the *Pope*, and *Arch-Bishop*, he concludes thus. But what he did in Secular matters I forbear to write, because it is not to my purpose, and because also any one may, from what hath been delivered, guess what he did in Secular.

Hist. Nov. fol.
6. n. 10, 20. 30.

Eadmer's Testimony how William the I. Governed.

B

The next is the Testimony of **Ingulph** Abbat of *Croyland*, an *English* Man, born of *English* Parents, *Secretary* to *William* when Duke of *Normandy*, and made Abbat by him; he informs us, that by hard usage he made the *English* to submit; that he gave the *Earldoms*, *Baronies*, *Bishopricks*, and *Prelacies* of the whole Nation to his *Normans*, and scarce permitted any *Englishman* to enjoy any Place of Honor, Dominion, and Power.

Hist. Croyl. f.
512. a. n. 50. b.
l. 1.

Ingulph Abbat of Croyland his Testimony in the same matter.

D

But more exprefs and full to this purpose is the account we have in *Gervase of Tilbury* (a considerable Officer in the *Exchequer* in the time of *Henry II.* and who received all he knew there from *Henry* of *Blou* the great *Bishop* of *Winchester* and *Grand-child* to the Conqueror) of his dealing with the *Natives* which he thus delivers: After the Conquest of the Kingdom, and just Subversion of Rebels, when the King himself, and his great Men had viewed and surveyed their

Gervase of Tilbury, or the Black Book in the Exchequer more full and exprefs in the same case then both the former.

E

new Acquests, there was a strict enquiry made, who there were which fighting against the King, had saved themselves by flight, from these and the Heirs of such as were slain in fight, all hopes of possessing either *Lands* or *Rents* were cut off; for they esteemed it a great favour to have the benefit of their Lives; but such as were called and urged to fight against *King William*, and did not, if in process of time they could obtain the favour of their *Lords* and *Masters* by an humble obedience and obsequiousness, they might possess somewhat in their own Persons, without hope of Succession, their Children only enjoying it afterward at the will of their *Lords*, to whom when they became odious, they were every where forced from their Possessions; nor would any restore what they had taken away: when a common miserable complaint of the *Natives* came to the *King*, that they thus exposed, and spoiled of all things, should be compelled to pass into other Countries: At length, after a

Lib. 1. C. de Murdro. de necessar. observ.

Note this.

F

Ibid.

And this.

Ibid.

How and after
what manner
the English
possessed
Lands after
this Conquest.

consultation upon these things, it was decreed, that what they could by their deserts, and lawful Bargain obtain from their *Lords*, they should hold by inviolable Right, but should not claim any thing from the time the Nation was Conquered, under the Title of Succession or Descent: Upon what great Consideration this was done, it is manifest, says *Gerbase*, when as they were obliged upon a studied compliance, and obedience, to purchase their *Lords* favour; so therefore, whoever of the Conquered Nation possessed Lands or such like, obtained them not as seeming to be their Right by Succession, or Inheritance, but as a Reward for their Merits, or by some intervening Agreement.

A

And this.

Adventurers
with Conque-
rers expect
Shares in the
Conquest.

And now let me ask this Gentleman, Was it not *William Duke of Normandy* did these things? Did he not think, forecast, and contrive how to do them? Was he asleep when they were done? Were they not done by the advice of his great *Officers*, and *Counsellors*, his Great *Lords*, and *Barons*? Can it be reasonably imagined that he and they should give way to, or establish such Laws as would undo, and destroy their own Settlement? Or can it be thought he never intended to gratifie the Adventurers with him in this Expedition, the *French*, *Flemmings*, *Angloins*, *Britains*, *Poitevins*, and People of other Nations, who made up a great part of his Army, and came with him under great and considerable Men their Leaders? Or that they should expect nothing? Can any man affirm they came out of *stark love*, and *kindness*, without any consideration of *sharing* with, and under him in the Conquest? Whosoever answers these Quæries justly, and truly, must acknowledge that *William* did claim no otherwise than by the Sword, and made an actual Conquest.

B

William the I.
claimed by
the Sword.
and made an
absolut: Con-
quest.

C

Ingulph. fol.
512. b. n. 40.
Williams best
Title from
the Sword.
What made
Williams Con-
quest of Eng-
land easie to
him.

The pretence that he claimed from *Edward Jure Hereditario*, is idle, unless it were *Jure Hereditario*, *Testamentario*; for neither was he Heir to *Edward*, or *Edward* Heir to the Crown by Descent. Notwithstanding the Gift, or Grant of the Crown from *Edward*, yet he thought the Sword was his best Title, and the other meer pretences to catch the People. The things that facilitated his Conquest, were the *Factions* among the *Saxon*, and *Danish Nobility*, and People; the *Popes* encouragement, and siding with *William*, and the inclinableness of the Clergy to his Cause; who were the Men that then had the great power over, and influence upon the People.

D

Not. ad eadem.
fol. 173.

Ibid. fol 172.
189.

Hist. *Croyland*
in fine.
King *Edward's*
Laws.

But still our Author urgeth that King *William* granted that *Edward* the *Confessors* Laws should be observed, and pitcheth upon those put out by *Selden*, who took them from the Copy preserved in *Croyland Abby*, which only he judgeth Authentick: The other put out by *Lambard*, and Printed in *Ro. Hoveden* he rejects: What these Laws were let us hear *Ingulph* himself. I brought with me (says he) from London the Laws of the most illustrious King *Edward*, which my Lord King *William* would have to be Authentick, and Perpetual through all England, and to be observed inviolably under grievous punishments, which were published, or proclaimed in the same Language they were written, lest by our ignorance we might incur the great danger, and most rigid Censures and Penalties of them. 'Tis clear from the very words of *Ingulph*, that these were only the

E

F

Penal

Penal Laws of King Edward, and indeed the Laws themselves, in number 50 only, Printed in the old *Norman* Idiom are all Poenal Laws, and such as concerned *Criminals* (nothing to our Authors purpose) except three or four about Reliefs, and one about Distresses of small moment, and these are all *Selden* (says *Ingulphs Copy*) affords, but that there were many others he likewise says in *Old Rolls* and *Parchments*, of which he had the best Copy, and hath tacked it to the rear of these, and proceeds in order with the 51 *Title and Law*, and so forward.

Were mostly Poenal Laws.

A And amongst these he finds a Branch of the *Conquerors Magna Charta*, which he thinks does him great Service. The words are these, *Uolumus etiam ac firmiter precipimus & concedimus ut omnes liberi homines totius Monarchie regni nostri prediati habeant & teneant terras suas, & possessiones suas, bene & in pace libere ab omni exactione injusta & ab omni Tallagio ita quod nihil ab eis exigatur, vel capiatur, nisi Serbitium suum liberum, quod de jure nobis facere debent & facere tenentur, & prout statutum est eis, & illis a nobis datum & concessum jure hereditario, in perpetuum per commune concilium totius Regni nostri predicti.* That is, We will, and firmly command, and grant, that all *Free-men* of the whole *Monarchy* of our *Kingdom*, may have and hold their Lands and Possessions well and in Peace free from all unjust *Exactions* and *Tallage*, so as nothing be exacted or taken unless their free *Serbices*, which of right they ought and are bound to perform to us, and as it was appointed to them, and given and granted to them by us as a perpetual right of inheritance, by the *Common Council* of the whole *Kingdom*.

P. 32, 33. The Conquerors Magna Charta examined.

D This *Common-Council* will not help him, for without doubt here was no *English men* in it; certainly they would not grant away their own Lands to Strangers. These were the *Saxon Lands* which *William* had given in *Fee* to his Soldiers to hold them under such *Serbices* as he had appointed them, and that by right of *Succession* or *Inheritance*, which right was not very frequent amongst *Feudataries*, or *Military Tenents*, in those days: but mostly they held their Lands at the Pleasure of the Lord or Patron. And this he did to endear his Followers to him, and this was no *Magna Charta* made to *English Men*, as this Gentleman and most others mistake it to be; and here also upon the same Account he granted their Lands should be free from all unjust exactions and *Tallage*, that is, from all extraordinary hard Impositions and *Taxes*; for so *Tallagium* signifies, not their ordinary *Scutagia* and *Auxilia*, *Scutage* or *Aids*; and good reason for this, when they served on Horseback themselves, and found King *William* so many Knights or Horsemen as he had appointed them, at their own Charge, whenever he commanded them.

F And these *liberi homines* Free-men, here mentioned, were such as held in *Military Serbice*, though our common Interpreters make them the same with our Free-men at this day; which is a gross mistake: for these Free-men in this Law, can be no other than such as are mentioned in the 58th Law here following, and they were such as held in *Military Tenure*, though not Knighted, for such as were, are called *Milites*, and the other *liberi homines*, and some-

See *Liber* or *Liberi homines* in *Glossar*.

Free-men in the *Confessors* Laws amended by *William*, who they were.

Law 58 explained.
Are there any English Earls, Barons, or Knights in Domesday that had Estates. If there be, lets know their names and number, they are soon told, and then it may be seen what proportion they bear to the Normans.
The Services of those Freemen.

See Liber homo in Glossar.

Glanvill lib. 2. c. 11. lib. 9. c. 7. Grand Cust. c. 11. fol. 135. b. K. John's Magna Charta, Paris, fol. 257. n. 40. Law 59th of the Conqueror explained.

See Liber homo in Glossar.
* K. John's Magna Charta, Paris, fol. 257. n. 40. This Law came from Normandy, and in the Grand-customer we have an Assize described to be an Assembly of Knights and Sage-men with the Bailly &c. c. 24.

sometimes they are taken promiscuously one for another. The Law runs thus, *Statuimus etiam & precipimus firmiter ut omnes Comites Barones & Milites, & Serbientes, & Univerſi liberi homines totius Regni nostri, &c.* The whole Law is thus aptly rendred in English, We ordain also, and firmly command, that all Earls, Barons, Knights, and their Servants, or Escuyers, and all Freemen of our whole Kingdom (the same words as in the 55th Law) be always fitted with **Hoſe**, and **Arms** as they ought to be, and always ready to perform their **whole Service** to us, when there shall be need, *which they ought to do, according to, and by reason of their Fees and Tenures.* As we ordained by the Common-Council of our whole Kingdom. We gave and granted to them in **hereditary Fee** (the very same words again) and this Command is not to be violated any way without full Forfeiture, that is, of all their Lands and Goods.

Here all the Freemen of his Kingdom were to perform their Military Services, with Horse and Arms, according to their Fees and Tenures. Therefore they were *Tenents in Military Service*, (which in those times were the only great Free-men, and that Service the only free Service) which were meant in this Law. And how different they were from our ordinary Free-holders at this day (for whom neither of these Laws were made) I leave to the Judgment of every ingenuous Reader.

These were the Men, the only **legal men** that named, and chose *Juries*, and served on *Juries* themselves, both in the County and Hundred Courts, and dispatched all Country business under the great Officers, as will appear by the next Law with a little explication. *Statuimus etiam & firmiter precipimus* (saith the 59th Law) *ut omnes liberi homines totius regni, sint fratres conjurati ad Monarchiam nostram & ad regnum nostrum pro viribus suis facultatibus contra inimicos pro posse suo defendendum & viriliter servandum, pacem & dignitatem corona nostra integram observandam, & ad iudicium rectum & Justiciam constanter omnibus modis, pro posse suo, sine dolo, & sine dilatione faciendum.* Which is thus to be turned, We ordain and firmly command that all **Free-men** of the whole Kingdom be **Sworn Brothers**, manfully to preserve and defend our Monarchy, or Government, and our Kingdom with all their Power, Force, and Might, and keep entire the Dignity and Peace of our Crown, and to give right Judgment, and to do Justice by all ways and means according to their power and ability, without fraud or delay.

The judgment they were to give, and the justice they were to do by this Law (besides that in their own Courts and Jurisdictions) was principally as they were Jurors or Recognitors upon *** Assizes**, &c. (though some of the greatest of their *Milites* were often Sheriffs, Hundredaries, and other under Judges, and ministerial Officers of Justice in the several Counties.) As may be seen in *Glanvil*, every where, but especially, lib. 2. c. 10. 11. lib. 9 c. 7. c. 13. & lib. 13. throughout. This of being Suitors to the County and Hundred Courts, &c. was a Service incident to their Tenures: Before them, many times anciently in the County, and Hundred Courts, and not privately in a Chamber, were executed *Deeds*, *Grants*,

A

B

C

D

E

F

A Grants, and Donations of Lands contained in very small pieces of Parchment, Witnessed by *Thomas* of such a Town, *John* of another, *Richard* of a third; &c. which were **Knights, & libere Tenentes in Military Service** in those Towns of considerable Estates, and not the Lower sort of the People: And this execution of Sales, and Assurances in open Court, was as publick, and notorious, and as secure, as if at that time, there had been a publick Register for them.

Bracton l. 2. c. 16. n. 12.

B In process of time the numbers of these Free-holders increased, the great Fees being divided into small ones, by Co-heirship, or by Sale, and otherwise parcelled out, by the Kings Licence, into Half-Fees, third parts of Fee; fourth parts of Fees, eight parts, sixteen, twenty, thirty, and forty parts of Fees; which twenty, thirty, and forty parts of a Knights Fee, if we allow Land to be of five times the value, it was 266 years since the Statutes were made, that Jurors should have 20 s. and afterwards 40 s. per annum, besides all Charges, that sum will amount to, for a twentieth part 10 l. for a thirtieth part 20 Nobles, and for a fortieth part 5 l. but if we allow Land to be seven, or eight times the value now, it was then, (as I think we may) then each of those Sums will amount to half as much more, that is to 15, 10, and 7 l. 10 s. A Knights Fee by general Computation, before that Tenure was destroyed by Act of Parliament, being valued at 200 l. per annum, and in the times near the Conquest until after King *John*, 20 l. per annum, was the value of a Knights Fee, and in the middle times after the Conquest 40 l. per annum was the value of the same, as is evident by the Writs of our Kings of those times to distrein men of 20 l. and 40 l. per annum, to receive the Order of Knight-hood.

Knights Fees divided. See Gloss. r. liber homo. The 20th part of a Knights Fee. The parts of a Knights Fee. 2 Hen. 5. c. 3. 35 Hen. 8. c. 6. where it is expounded.

D And as the number of them increased, so they were all obliged to the same Service and Suit of Court, as well those that had a greater, or lesser share of the Fee, for though it might be here as it was in Normandy, that no part of a Fee above an Eight, was esteemed a Member of a Fee, and retained Jurisdiction, Court, and Usage, (as it is there said) yet the Suit to the County and Hundred Courts remained. For though very many Lands which were aliened by Charter from the Fee, were, and all might have been discharged, from all Military and other Service free and base, where there was enough left, to perform the Service of the Fee, yet Suit to the County and Hundred Courts could not. See more to this purpose in the Glossary, and the words Feudal Law, Knights Fees, liberi homines.

Knights Fee, see Glossar. The ancient value of a Knights Fee. Dors. claus. 6. Ed. 2. m. 27. ib. 9. E. 2. m. 13.

F These with the Military Tenents, from whom they derived their Titles, in all probability were the Men, that at first Elected two Knights in every County, out of the Tenents in Capite, and only they as Suitors to the County Court were Electors, when at first the Body of them began to be this way represented; and this very likely was the reason of the Statute made afterwards, 7 Hen. 4. c. 15. An. Dom. 1406. that the Election should be made in the County Court by the Suitors, &c. and likewise might be the reason why the Statute of the 8th of Hen. 6. c. 7. by which any Man that had 40 s. per annum of any Tenure, was permitted to be an Elector, was altered,

Grand Cust. c. 33. what was a Member of a Knights Fee.

Military Tenents Suitors to the County and Hundred Courts.

altered, and so explained that none but Free-holders of 40 s. per annum should afterward be Electors by 10 Hen. 6. c. 2. An. Dom. 1432. with respect perhaps to the least part of Knights Fees, viz. 40 s. per annum, which were come into the hands of very ordinary men; for anciently soon after or near the Conquest, there were very few or no great Soccagers, that is, such as held great Estates in Soccage; and neither the small ones, nor the Nativi, or Copy-holders, were reputed liberi, or legales homines (as before mentioned) or performed the Service proper to such Military Tenents, or those to whom they had alienated part of their Fees.

LL. Hen. 1. c. 29.

Most of the ancient Law was the Feudal Law. Vid. Glossar. Feudal Law.

P. 32, 33, 34, 35.

Fol. 55. n. 40. & 255. n. 50.

P. 39, 40.

The truth is, the greatest part of the ancient Law under our ancient Kings after the Conquest was the Feudal Law, brought hither by the Normans, under whom it was more rigidly exacted and observed than in the Saxon times, and that by, and upon only the Normans themselves. For the English had neither Estates nor Fortunes left, and therefore it could be no great matter to them, by what Law, Right, or Propriety, other men held their Estates. This Law, and the great Penal Laws and Customs then in use were brought out of Germany by both these People, they being Neighbours there; and if there were any usages came along with them, which seem to have no dependance upon that Law, yet without great trouble most of them are reducible to it. I have been thus long in expounding the Magna Charta of William the Conqueror, as this Gentleman calls it, that I might discover the Mistakes of the Common Interpreters about the meaning of it.

I confess this discourse doth not directly reach the Controversie between us, but I follow our Author, as I promised in the entrance upon it, and he hath led me to it, by insisting much upon the ordinary, common, and mistaken Notions of the Conquerors Title, Laws and Government, devised on purpose to decry, baffle, and conceal the nature, and use of the Feudal Law here, and encourage the People to tumult against it, by the Monks and Clergy-men-Lawyers, who wrote a Century two or three after the Conquest, that they might the more easily introduce instead of, or mix with it, the Canon Law; yet most what the Clergy and Laity then desired, or had granted them, was only the relaxation of the rigid Feudal Tenures, as is evident by the Charters of Henry I. and King John, both in Mat. Paris, which contain little else.

All our Author collects from this discourse upon the Conqueror, is, that there were Common Councils in his time, whereby it appears that the Free-men or Commons of England were there, and had a share in making Laws; For what (says he) could the promised restitution of the Laws of Edward the Confessor signifie, if their Witen-Gemote and Parliaments were destroyed and broken? This needs no other Answer, than that it doth not appear by the Confessors Laws, (if we know what they were) that the Commons were part of the Saxons Witen-Gemote, but on the contrary it hath been here proved, and will further appear, that as the Saxon Great Men, were only present, in their great Councils, so the Norman Barons, and their great Men, were only present in those of the Conqueror.

There

- There were several great Councils in *William* the I. his Reign, but who, and of what Persons they consisted, is not so clear, they were chiefly about Ecclesiastick matters, and in most of them we have many *Bishops* names, and no others, not so much as the *Principes*, *Primates*, or *Magnates* in general, unless in that Council, *An. Dom. 1071.* mentioned in *Radulph. de Diceto*, wherein 'tis said the plaint of *Wulstan*, Bishop of *Worcester* was ended, in *Concilio celebrato in loco qui vocatur Pedreda, coram Rege & Dorobernia Archiepiscopo, & Primatibus totius Regni.* The great confluence of People at his Coronation, is to be looked upon rather as a confused congress, than a regular great Council; and what was done there by the *English*, cannot truly be said to be their act (many of the *Bishops* excepted) who dare do no otherwise, being over-aw'd by his whole Army there present, and must in all things submit to his pleasure; for when *London*, and the Countries about it, had submitted, given *Hostages*, and sworn Fealty to him, he nevertheless permitted his Army to burn Towns, and commit Rapine. The Meeting at *Pinenden-Heath* in *Kent* was a *Shire-mote* or *County Court* rather than great Council, appointed by Special Commission, for the determining the Controversie between *Arch-Bishop Lanfranc*, and *Odo Earl of Kent*, concerning *Lands* and *Customs* he withheld from the Church of *Canterbury*, where the King by Writ convened the Chief and Legal Men, not only out of *Kent*, but out of other Counties of *England*, as *Arbiters* and *Judges*. And good reason, seeing the *Kentish* Men were like to be too much biassed on one side or other, in respect of the Dependency on, or relation to one of them; and here the Judgment was for *Lanfranc*, having so great reason on his side, that *ex communi omnium astipulatione, & iudicio ibi cuncta recuperavit*, by the common astipulation and Judgment of all the Judges or Jurors, or of all present. Not astipulatione totius regni (as our Author cites *Eadmer*) he there recovered all things.
- The last Authority he brings in this Kings Reign is from the Year-Books, where in a Case concerning the exemption of the *Abby* of *Bury* from the Visitation of the Bishop of *Norwich* it is said, *In tempus W. Conqueror a son Parliament*; here because the word *Parliament* is mentioned, which came not into use instead of *Colloquium magnum*, or *Commune Concilium*, &c. until about the middle of the Reign of *Henry III.* and became of more frequent use after the 49th of *Henry III.* when the other words were very little, or not at all used. He would have the Commons to be a part of that great Council, as they were of the *Parliaments* in the time of *Edward III.* and conceals what follows; that what was ordained in that *Parliament* (as they then called a great Council) was *per le Roy & per le Archevesq; de Canterbury & per tous les autres Evesques de la terre Countes & Barons*, By the King, the *Archbishop* of *Canterbury*, and all the other *Bishops* of the Land, *Earls* and *Barons*. From this passage we may observe that *William* the First was then reputed a Conqueror of this Nation, and that the Judges of that time thought him so, and that the Members of that *Parliament* (if he will have it so) were the King, *Archbishop*, *Bishops*, *Earls*, and *Barons* only, the Commons being not mentioned.

Col. 483. n. 30.

P. 29, 30, & c.

Hoved. l. 2. s. 8.

a. l. 9.

Ibid. l. 7.

The meeting at *Pinenden-Heath* no great Council.

P. 45.

The Case between *Arch-bishop Lanfranc*, and *Odo Earl of Kent*. *Eadem Hist. nov. fol. 9. n. 40.* How judged P. 46.

21 Ed. 3. fol. 60.

P. 48.

Ib. 21 E. 3. f. 60.

Great Councils in the Conquerors time consisted of the King, Bishops, Earls, and Barons.

William the Second.

BUt to proceed, the *Constituent parts* of the great Councils in the *Conquerors* time will better be known by what they were in the Reigns of the next succeeding Kings, for they were certainly the same: yet before we come at them, we must step out of the way if we will closely follow this Gentleman. He tells a piece of a Story how *William Rufus* came to be King, and at last concludes that he was elected, and here and there tells us that many of our Kings (such only as were manifest Usurpers) since the *Conquest* were Elected. But he may as well say *Oliver Cromwell* was elected *Protector*, or any other *Traitor* or *Usurper*. *Rufus* his Pretence to the Crown, was his Fathers Will, by which he gave *Normandy* to his eldest Son *Robert*, *England* to his second Son *William Rufus*, or a Sum of Money, or his Mothers Possessions in *England* to his Third and youngest Son *Henry*.

William Rufus was not Elected.

Florent. Wigorn. fol. 642. who was at this time a Monk in *Worcester* and *Malmesb. fol. 63. b. l. 6.*

Order Vital. fol. 763. D. An *Englishman* and a Monk at this time in *Uticum* in *Normandy*. * *Godw. de præful. Angl.* How *Rufus* came to be King.

Orderic. Vital. fol. 663. C. *Florent. Wigorn. ut supra.* *Florent. Wig. ibid. An. Dom. 1088.*

Fol. 665.

Ibid. f. 666. A.

No sooner was the *Conqueror* dead, but his Son *William* (not staying to pay the last dues to his deceased Father) halted into *England* with *Robert Bloet* one of his Fathers Chaplains (afterwards *Rufus's* Chancellor, and * *Bishop* of *Lincolne*) who brought to *Lanfranc*, *Archbishop* of *Canterbury*, the Donation of his Father, which he having read, and taking from him all imaginable security by Promises and Oath that he would be very kind to the Clergy, made haste with him to *London*, and by his Interest in them (who then imagined the Affairs of the Nation) and such other Great Men as he could influence, on *Michaelmas* day (the *Conqueror* dying *September 9.*) with their consent Anointed him King in the old Church of *St. Peter* in *Westminster*, and returning to *Winchester* (where was then the Treasury in the Castle there) he distributed his Fathers Treasure as he had commanded him, and sent it to the Churches and Monasteries through *England*.

Florence a Monk of *Worcester* at that time, who died *An. Dom. 1119.* and was no friend to *Rufus*, tells us, that not long after his Coronation there arose great discord and contention between the chief Men of *England*; for part of the Great, and Noble *Normans* favour'd King *William*, but it was the least; and the other part of them favour'd *Robert Duke* of *Normandy*, which was the greatest.

Ordericus Vitalis at this time a Monk in the Monastery of *Uticum* in *Normandy*, gives a more full account of the Transactions concerning this matter, to wit, that the chief Men that had and were like to have great Estates both in *England* and *Normandy*, met to treat about the conveniencies or inconveniencies of the separation of them one from the other, by the Rule and Dominion of two distant Princes, having both been under the Power, and Government of their defunct Lord, who by their assistance had Conquered *England*. They were in a great streight what to do, they could not serve two Lords so remote from one another: If they faithfully served the Duke of *Normandy*, they should offend his Brother *William*, and lose their Lands and Honours in *England*; and if they proved obedient to him, *Robert* would deprive them of their Paternal Inheritance

tance in *Normandy*; At last they resolved, seeing *Robert* was the eldest, and that they had sworn Fealty to him in his Fathers life time, to set him up and make him King of *England*, for the preservation of the Unity of both Nations. *Odo Bishop of Bajeux, Eustachius Earl of Bolkoin, Robert de Belesme*, and many others acquainted *Robert* with their intention, to whom, if they would begin, he promised sufficient assistance for the effecting their Design. Therefore after *Christmas* they passed into *England*, fortified their Castles, and in a short time stirred up a great part of the Country against the King, with these joined *Roger Earl of Arundel*, and *Shrewsbury, Hugh Grentmesnil, Vicount of Leicester*, and many more very great men in *England*, or at least seemingly continued with *William*, and favoured the Design of *Robert*.

Ibid. C.
The great Normans would have set up Robert Duke of Normandy.

King William observing the posture of his affairs, resolved to suppress these Insurrections, and to that purpose Convened *Lanfranc the Archbishop, Bishops, Earls, and Natural English*, and shewed them his intention, who exhorted him to proceed against the Perturbers of the Peace, and promised their ready assistance. And then, as the Monk of *Worcester* again informs us, *Congregato quantum ad presens poterat Normannorum, sed tamen maxime Anglozum Equestri & pedestri (licet mediocri) exercitu, &c.* having raised such an Army as he could of Horse and Foot of *Normans*, but the greatest part *English* (though but a mean one) and by using the Common bayte of *Liberty*, declaring he would alleviate the rigid Laws, give free leave of *Hunting*, &c. he so encouraged his Men, that he took in *Rocheſter*, and some other Castles, and brake the force of his Enemies.

Ibid. D.

The English were Stipendiaries, *Mat. Par.* fol. 15. n. 20.

By what means *Will. Rufus* brake the Force of his Enemies.

But he overcame his Enemies not so much by force, as by insinuating himself into *Roger Earl of Arundel* and *Shrewsbury*, the chief person next *Odo*, in this Insurrection; to whom he pretended, he would most willingly quit the Government, if he, and those his Father had assigned his *Curators*, should think fit. Yet adding, that he understood not why they were so outrageous against him. If they would have Money, or Augmentation of their Estates, they might have what they would, upon condition they endangered not his Fathers Will and Judgment, which if they despised, they might hazard their own safety; for the same man that made him a King, made them Earls and Great Men, and he ruled by his Army ever after.

Maimesb. de Gest. Reg. fol. 68. a. n. 19. 20.

Roger Earl of Arundel and Shrewsbury comes off to William Rufus.

William Rufus Ruled by his Army.

Here we see *William Rufus's* Title to the Crown, from his Fathers Will, and his own Sword, the greatest part of the *Norman Nobility* (which were then the only Nobility in *England*) were his Enemies, the *Bishops, Hugh Earl of Chester*, and *Robert de Roelent*, who was his General, *William de Warrenna*, and some few others his Friends. Let our Author consider this, and tell me whether *William the II. was Elected*, or not: Or let him consider, that an Election is, or ought to be, a Free, Solemn, Deliberate, Sober, Sedate Act, of the whole People (where they have that Right) whereby the major part of them do chose this or that Person, or thing, for such or such Ends and Purposes. And not an Undermining, Crafty, Cheating, or a Tumultuous and

His Title.

The Great Men that sided with him.

What an Election is.

Forceible Act of a Party, or Faction, for the setting up this or that Person, or using this or that Means for the obtaining their own Designs and Purposes. Let him, I say, consider and make a difference between these two Acts of the whole People, and a Faction, and he may easily make a true Judgment of all the pretended Elections of our *English Usurpers*, and all other *Craytors* whatever.

This is all worth notice that he says of this Kings Reign; but what is this to the great Councils or Parliaments; or how doth it prove that the Commons were an Essential part of them in this Kings Reign? Truly I cannot tell, nor I think any other Man, unless he will have it to be so, because some of the *English* by the instigation of the Bishops, and out of hatred to the *Normans*, took Arms for him, and helped him to overcome his Enemies. There were not, I suppose, many great Councils in *Rufus's* his time; and in those we find mentioned, there is not the least probability, that the Commons, as now called and distinguished from the great Lords, had any place in them.

Eadmer fol.
20. n. 30.
A. Dom. 1093.
The great
Councils in
Rufus's time.

At Winchester.

I shall cite three or four, which I find clearly expressed. In the sixth year of this King there was a great Council at Winchester, wherein the King declared *Anselm Arch-Bishop* of Canterbury, and he did homage to him. This Council is only thus expressed, *Ver adunato Wintonie conventu Nobilium*, without specifying either Ecclesiasticks or Laicks. The King having Convened the Nobility at Winchester, without doubt both Orders of the Nobility were there, both the Lords *Spiritual* and *Temporal*, but not the Commons.

Eadmer fol.
26. n. 10.
At Rocking-
ham.

An. Dom.
1094.

The Bishops,
Abbats, and
great Men on-
ly in this
Council.

In the seventh of this King there was a great Council held in the Church in *Rockingham-Castle*, where the Question concerning the Kings Supremacy was discussed, *Et Regia Sanctione ferme totius regni Nobilitas quinto Idus Martii in unum apud Rockingham coit.* That is, almost all the Nobility of the whole Kingdom, by the Kings Edict met at *Rockingham* on the eleventh of March; and five or six Lines before this, in the same Leaf, we are told what the Nobility were, and what the cause of their meeting. *Anselmus igitur Salvâ ratione suâ, quam de subjectione & obedientiâ Romanæ Ecclesiæ in medium tulerat, petivit Inducias ad istius rei examinationem, quatenus Episcopis Abbatibus cunctisque Regni principibus, una coeuntibus communi assensu definiretur, utrum Salva reberentia & obedientiâ sedis Apostolicæ posset fidem Terreno Regi Servare an non.* That is, *Anselm* saving his reason he had produced concerning subjection, and obedience to the *Roman* Church, desired Respite for the examination of the matter, that it might be defined in a Convention of the Bishops, Abbats, and all the great Men of the Kingdom, by common Assent, whether or no saving his obedience, and reverence to the Apostolick See, he might keep his Faith to a Terrene King.

Ib. f. 38. l. 6.
A. D. 1095, or
1097.

In the ninth or tenth year of this King, I find in the same Author there was another great Council, *in sequenti Mense Augusto cum de statu Regni auctor Rex Episcopos, Abbates, & quosque Regni*

Regni Proceres in unum precepti sui sanctione egissent. The King intending to act something concerning the state and affairs of the Kingdom, by his Edict convoked the *Bishops, Abbats, and all the Noblemen* of the Kingdom. Can any man but our Author think the Commons were any way represented in any of these great Councils, and in those times there were no other?

A great Council in the 10th of *Rufus*, of the Bishops, Abbats and Noblemen only.

A

Henry the First.

FROM *Rufus* he passes to *Henry I.* who, according to his understanding of Elections, was an Elected King, though set up by a Faction; for *Malmesbury* says, there were only *five great Men*, *Robert Fitz Paymon*, *Richard de Redbers*, *Roger Bigot*, *Henry Earl of Warwick*, and *Robert Earl of Bellent* his Brother, all *Normans*, that favoured him, and by the contrivance, chiefly of *Henry Earl of Warwick*, he was made King, *all others sent privately to Robert Duke of Normandy*, that he would come and be their King, or at least *reproacht Henry* *. But when he came over, and most of the great Men either did or were about to revolt from *King Henry*, *Anselm Archbishop of Canterbury*, who had given him great assistance in raising of an Army, after he had received from him great Promises, that all Church Affairs should be left to his direction, and disposing; and that he would for ever after obey the Decrees and Commands of the Pope, assembled the great Men, and so cajoled them and the Army, that he altered their Intentions; and it was from his Fidelity, and Industry that *Henry* lost not the Kingdom.

P 67.
Fol 88. a. n.
20 49.
Henry I. set up by a Faction.

D *Robert* being thus disappointed, and fearing lest *Anselm* should Excommunicate him, consented to a Peace, and the two Brothers were reconciled.

* *Eadmer* fol. 49. n. 10, 20, 30.
Arch-Bishop *Anselm* dissuaded the great men from setting up *Robert D. of Normandy*.

E *Florence of Worcester* says, that the day he was Crowned by *Maurice Bishop of Lincoln*, he gave great Liberties to the Church and Kingdom, and commanded that *King Edwards Laws* should be observed, with such Amendments as his Father had amended them; and adds, that very many of the great Men sent for him over, and promised him the Crown and Kingdom, and coming, they did some of them adhere to him. But the *Bishops, Common Soldiers, and English*, stuck close to *King Henry*, by whose means he raised a very great Army; but the wisest Men on both sides consulted together, and by their Mediation, made Peace between the Brothers, on these Conditions, That *Robert* should yearly receive 3000 Marks, and that all such as had their *Earldoms and Baronies* taken from them in *England*, for their Fidelity to the Duke, and all those that had the like Estates taken from them in *Normandy* for their Fidelity to the King, should have them again freely, and without composition.

Fol. 650.

His Amendments and Additions were chiefly the two Feudal Laws here before explained. Which made them Laws desired by the *Normans*. A Peace made between *Robert Duke of Normandy*, and *King Henry*.

F Indeed *Mat. Paris* says the great Men of *England* (which were *Normans*) not knowing what was become of *Robert*, being gone five

Fol. 55 n. 20, 30.

Henry made
great Promi-
ses to obtain
the Crown.

five years in an Expedition to the *Holy Land*, and fearing to be long without Government, Henry *promising Amendment of their Laws, to restore their old Liberties and Customs, and the Laws of King Edward, and to confirm them*; then he was Consecrated and Crowned King by Maurice Bishop of London. And Thomas Archbishop of York, *habente populo & Clero*; which brings me to the consideration of those two words from which our Author thinks he hath so much advantage, and in clearing the sense of the word *populus*, shall answer most what remains in his Preface.

Lexic. Jurid.
in verbo.

Concerning the word *Clerus*, or what is meant by that, there is no controversy between us; and though perhaps we much differ about the sense of it, yet I pass it by, and come to the word *Populus*, which Calvin says amongst the Romans did equally signify the *Patricii & Senatores* (which were there *Magnates*, or *Noblemen*) as *Plebs & Vulgus*, the inferior sort of People. But I shall not spend time about the foreign Notation of the word, and will therefore see whether it hath any other sense or meaning, in our Laws and Historians, than that our Author puts upon it; He always takes the meaning of this word as *contradistincta* to *Magnates*, *Nobiles*, &c. and understands it of the inferior sort of People, or at least of those, and such as were inferior to *Barons*, *Tenents in Capite*, and *Noblemen*. But he ought to take the meaning of *Populus*, as it is *contra-distinct*, to the word with which it is used, and to which it is opposed, that is *Clerus*, and then it signifies no more than *Laity*, and they both together do import *Clergy*, and *Laity*, or *Ecclesiastics* and *Seculars*: So that the word *Populus*, here doth not denote a distinct State, or Order amongst *Secular men* or *Laicks*, but an *Order* and *State* of Men distinct from the *Ecclesiastics*, or the *Clergy*.

The meaning
of the word
Populus.

In this sense 'tis used in King Ina's Laws *Cress we Sebedeoth that Godes Theowas bioza ryht Regole gpmā and on ryht bealdan Efer than we beodeoth that ealles folces. æ. and Domas thus lnd gebealdene*. That is, First we command that Gods *Servants* or *Ministers* do observe their right Rule, and hold them to Justice; after them we command that all the *People*, do thus, or according to this Tenor hold the Laws and Judgments. King Edmund held a great Council at Easter, in London, *Egðer Ge Godecundza hada, Ge Wozuldcundza, &c.* Lambert thus translates these words, *Tam Ecclesiasticorum quam Laicorum*, as well of Ecclesiastics as Laicks. Brompton translates the whole Preface more according to the true literal meaning of the words in this manner. *Edmundus Rex congregavit magnam Synodum Dei Ordinis & Seculi apud Lundoniam civitatem in Sancto Pascha Solenni, cui interfuerunt Odo, & Wulstanus Archiepiscopi, & alii plures Episcopi, &c.* In English thus, King Edmund summoned a great Synod at London, of Gods Order and the *Secular Order* in the Holy Solemnity of Easter, where were present Odo and Wulstan, Arch-Bishops, and many other Bishops, &c.

In the Preface
to King Ed-
ward's Laws,
the Laicks in
this great
Council were
the great
Saxons, as is
clear by what
is said before
of their gr at
Councils.
Col. 858. n.
40.

Lamb. fol. 58,
&c.

In the second part of *Edmunds Laws*, are almost the same *Saxon* words, denoting the Members of a great Council, and the same way turned, except that for *Seculi Ordine*, the worldly Order or State,
Brompton

Brompton hath *Laicis* Laymen. Here we see the *Saxon* words, which express **Clerus** and **Populus**, as they are used in opposition one to another, do signifie the *Clergy* and *Laity*, the two **General States**, and **Orders**, into which all Mankind is divided.

Brompt. f. 800.
n. 50.

A But to come nearer to our purpose, *King Egbert*, having Conquered the greatest part of *England*, returning to *Winchester*, **D**abit omnibus **M**ajoribus **R**egnozum, que conquesterat ut conbenirent ad illum die certo *Wintoniam*: **veniunt Wintoniam Clerus & Populus**, & assensu omnium partium coronatus est. *Egbertus in Regem totius Britannia*. Commanded all the great Men of the Kingdoms he had Conquered, that they should meet him at *Winchester* on a certain day: **The Clergy and People** came to *Winchester*, and by the assent of all Parties (that is, the great Men of every Kingdom) he was *Crowned King of Britain*: Who were here, the **Clerus & Populus**, the **Clergy and People**, but the **Majores Regnozum**, the great **Ecclesiasticks**, and **Laics** or **Laymen** of the several Kingdoms of *England* at that time? Having cleared the Notion of the word **Populus**, as it is used and joined with **Clerus** by way of *Antithesis*, or contra-opposition, I come to his own Instances in his own Authors, and begin as he doth, first with *Mat. Paris*: The whole Relation runs thus:

Dugd. Monast.
vol. fol. 32. n.
60, &c.

C *Defuncto itaque Rege Willielmo cum Magnates Anglia ignorarent quod actum esset de Roberto D. Normannorum Regis defuncti fratre primogenito, qui jam per quinquennium in expeditione Hierosolymitana moram pertraxerat, timuerunt Domini sine regimine vacillare. Quod Henricus fratrum ultimus, & Juvenis Sapientissimus, cum calide cognovisset, congregato Londoniis Clero Anglia, & Populo universo, promissit emendationem Legum, quibus oppressa fuerit Anglia, tempore Patris sui, & Fratris nuper defuncti, ut animos omnium in sui promotionem accenderet & amorem; & ut illum in Regem susciperent & patronum; ad hac Clero Respondente, & Magnatibus tuncis, quod si animo volente ipsi vellet concedere, & Charta sua communire illas libertates & consuetudines antiquas quae floruerunt in Regno tempore sancti Regis Edwardi in ipsum consentirent, & in Regem Unanimiter consecrarent. Henrico autem hoc libenter annuente, & se id facturum cum Juramento affirmante consecratus est in Regem apud Westmonasterium in die Assumptionis Beatae Mariae, sabente Clero, & Populo.*
E *cui continuò a Mauritio Londinensi Episcopo, & Thomâ Eboracensi Archiepiscopo corona capiti imponitur.* That is, After the death of *King William*, the great Men of *England*, not knowing what was become of *Robert Duke of Normanay*, eldest Brother of the deceased King; who now had been absent five years in an Expedition to the *Holy Land*, were afraid to be long loose without Government: Which *Henry* the youngest Brother, and a Wise young Man craftily observing, having Convened the Clergy of *England*, and all the People, he promised Amendment of the Laws with which *England* was oppressed, in the time of his Father and Brother, lately deceased, that he might inflame the minds of all Men to love and promote him, and receive him as their King and Patron, **to which the Clergy and all the great Men answered**, That if he with a willing mind would grant to them the Laws which flourished in the Kingdom, in the time of *Holy King Edward*, they would unanimously

P. 56.
Fol. 55. n. 20,
30.

The Relation
of *Mat. Paris*
how *Henry I.*
was made
King.

August 15.

nimously agree in him, and consecrate him King. Henry willingly granted this, and taking an Oath that he would perform it, was consecrated King at *Westminster*, upon the day of the Assumption of the Blessed *Mary*. The Clergy and People favouring him, upon whose Head the Crown was placed forthwith by *Maurice Bishop* of *London*, and *Thomas Archbishop* of *York*. Upon this Relation I shall make several Remarks:

First, That it was not possible for the Clergy, or all the People of *England*, or any that represented the People of *England*, to be at this Consecration and Coronation of *Henry*. For *Rufus* was slain in *New-Forest*, on the fourth of the *Nones*, or second of *August*, being *Thursday*, and *Henry* was Crowned upon the *Nones*, or fifth of the same Month, being *Sunday*. So that it was impossible for the People in two days time, at any considerable distance from *London*, to have notice of *Rufus's* death, or to meet, choose, and send their Representatives to *London*, or indeed for the Bishops, and Clergy to come from the far parts of *England* in that time; and therefore it was only *Henry's* Party, and Faction, in, and about *London*, that he partially calls the Clergy, and all the People of *England*.

Secondly, I note, That it was *Clerus & Magnates cuncti*; the Clergy and all the Noblemen, which answered him (making his great Promises) that if he would with a willing mind grant and confirm by Charter, their Liberties, &c. then they would consent, and unanimously consecrate and make him King, not one word in this place of any Populus, but the Great or Noblemen, and therefore they must be the People, or Lay-men here meant. But our Author very unfairly translates these words. *Ad hoc Respondente Clero & Magnatibus cunctis*, only by these words, *To which it was generally answered*; hereby imposing upon and cheating his Readers into an opinion that it was the *Populus Univerfus*, thereby meaning the Plebs and Vulgar that made this Answer, and consented to Consecrate *Henry King*.

But further, to make good what I now say, let us see who were the Constituent parts of the great Council held at *Westminster* on *Michaelmas-day*, 1102. in the second year of this King; they were *omnes principes regni sui Ecclesiastici, & Secularis ordinis*; All the chief Men of his Kingdom, of the Ecclesiastick and Secular, or Lay-Order; or the Clerus and Populus. Or as *Eadmer*, who was then at this Council with *Arch-Bishop Anselm*, calls the Members of this very great Council, *Primates Regni utriusque Ordinis*, the prime or greatest men of both Orders, that is, the Clerus & Populus, or Ecclesiasticks and Laics; and three or four lines before he tells us, what the Primates of both Orders were, to wit, Bishops, Abbates, and the Principes totius regni, the Princes, or chief Men of the whole Kingdom, and therefore, *faciente clero & populo* must refer to the same persons expressed before in these words, *Respondente Clero, & Magnatibus cunctis*, who only consented and unanimously made him King.

Thirdly,

Florent. Wigorn. who died the 19th of Henry I. fol. 649. lin. 27. & fol. 665. lin.

The Clergy and great Men set up Henry I. not the People.

P. 6. The unhand-some Translation of the Author.

Florent. Wigorn. f. 651. lin. 21.

Fol. 67. n. 20.

Clerus & Populus, Ecclesiasticks and Laics.

Thirdly, That *Edward the Confessor's Laws* here desired, were those *Laws which William the Conqueror had amended*; they being very pleasing and acceptable to the *Normans* (who set up *Henry*) havingt hereby their *Reliefs made certain, their Military Fees Hereditary, and freed from all extraordinary Taxes, &c.* as hath been shewed in the Exposition of the fifty five and fifty eight Laws beforementioned, but for all his fair Promises concerning these

A Laws and Liberties of the People, and his Flattering, Wheedling Speech, this Gentleman is so much taken with; his own Author tells us, that afterwards when with a *seared and cauterized Conscience* he had obtained the Kingdom, and *usurped upon his Brother Robert, who had manifest Right*, he impudently violated the Laws and Promises, by which he had drawn in all men to serve him.

Flor. Wigorn.
fol. 63. l. 14.

Edward the Confessor's Laws, why pleasing to the Normans.
These amendments were Additions, not Corrections.
P. 69.

Mat Paris
fol. 61. n. 50.
fol. 62. n. 10, 20
30.

Henry I. violates his Promise.

Before we pass from King *Henry*, let us observe how *Eadmer*, that

B was constantly in the Family and company of Archbishop *Anselm*, and present at most of them, stileth the *Great Councils* in his Reign. He expresseth the *Great Council* at *Winchester* by these words. *Episcopis Terreque Principibus sub uno coatis.* A great Council at *London*, *Rex adunatus Londonie Principibus Regni.* A Council at *Westminster* thus, *Concilium Episcoporum Abbarum & Principum totius Regni, & Primates Regni utriusque ordinis.* Another Council by *regni Ingenuitas.* Which two Lines before he calls *Episcoporum Regnique Primatum Concilium.* A second great Council at *London* he phraseth *Conventus Episcoporum Abbarum & Procerum Regni.* A third great Council at *London*, he reckons up the Members thus, *Archiepiscopi, Episcopi, & cuncti Barones Regni.* A fourth there, *Episcopi & Principes Regni.* A fifth great Council at *London* he calls *Regnum Anglie.* A great Council at *Wind-*

C *for* thus, *Episcopos & Principes Anglie in unum apud Windlethoram fecit venire.* Again, *Rex iussit omnes Episcopos & Principes totius Regni ad Curiam suam sub uno venire.* At *Salisbury* *factus est Conventus Episcoporum Abbarum & Principum totius Regni.* A sixth great Council at *London*, *Episcopi Abbates & Nobiles quique Londonie adunati sunt.* After this manner *Florence of Worcester* expresseth the Great Councils in this King's Reign, though he mentioneth not a fourth part of them. In all these not the least word of the *Commons*, much less of their being an *Essential part* of the great *Councils* or *Parliaments* of those

D

E times.

Fol. 62. n. 10.

Fol. 65. lin. 8.

Fol. 67. n. 10.

Ibid. n. 20.

Fol. 70. n. 20.

Fol. 91. n. 20.

Fol. 94. n. 50.

Fol. 102. n. 50.

Fol. 105. l. 3.

Fol. 109. n. 30.

Fol. 114. n. 30.

Fol. 117. n. 30.

Fol. 118. n. 20.

His next Instance is of King *Stephen*, that he was *assensu cleri & populi in Regem electus, & per Dominum Papam confirmatus*, That he was chosen King by the assent of the People, and confirmed by the Pope. 'Tis well this Gentleman brings in the Pope to help out his Title, for he mended all crackt Titles of Usurpers, and was most commonly the *Author* or *Abettor* of our *ancient Rebellions* in England.

P. 64.

F The words are taken out of the beginning of King *Stephen's Charter of Liberties* transcribed by *Malmesbury*. *Ego Stephanus Dei gratia assensu Cleri & Populi in Regem Anglie electus, & a Domino Willielmo Archiepiscopo Cantuariæ, & Sanctæ Ecclesiæ Romanæ Legato consecratus, & ab Innocentio Sanctæ sedis Romano Pontifice postmodum confirmatus. Respectu & amore Dei Sanctam Ecclesiam liberam esse concedo, & debitam reverentiam illis Confirmo, &c.*

Hist. Novel.
fol. 101. b. n. 20
Notwithstanding what he says of himself in his Charter, King Stephen was not elected.

E

And

Ibid. fol. 100.
b. n. 30.

Ibid. fol. 100.
b. n. 30.

Henry Bishop
of Winchester
the great In-
strument in
setting up King
Stephen.

Ibid. a. n. 40. &
fol. 101. a. l. 5.

Ibid. n. 10. &
n. 40. now at
least 100000 l.
Ibid. n. 40, 50.
& b. lin. 5.

Stephen set up
by a Faction.

Fol. 47. n. 20,
30, 40, & c.
Fol. 121. b.
throughout.
The Relation
how Henry I.
was made
King, out of
Paris and
Huntingdon.

Col. 505. n. 40,
50.

The Archbi-
shop of Can-
terbury abused
by a Story
from Roger
Bigod.
He was Earl
Belogne and
Mortagne.
The Noble-
men, the Peo-
ple or Laity.

And indeed most of the Liberties granted in this Charter, are to the Church; for by the contrivance of two or three great Churchmen, he was advanced to the Throne, though King Henry upon his Death-bed, being interrogated about a Successor, gave all his Estate here, and beyond Sea, to his Daughter **Maude** the **Empress**, and notwithstanding all the Nobility, and amongst them King Stephen himself, had sworn Fealty to her; yet by the interest of his Brother Henry Bishop of Winchester, (without which his Attempt had been frustrated) he was made King. He brought off Roger Bishop of Salisbury, a great and powerful Prelate, with William de Pont-Arche, Keeper of King Henry's Treasure, which was 100000 l. in Money, beside Gold and Silver Vessels, of great weight, and inestimable Price.

Malmesbury that flourished and wrote at this time, says, that by his own Dexterity, and the Artifice of his Brother, and Roger Bishop of Salisbury, and the advantage of this Money, he inclined the Minds of the Noblemen much towards him, and raised an Army chiefly of Flemmings and Britains; but speaks not of any great Council called, either to elect him King, or for the Solemnity of his Coronation; at which there were present only three Bishops, the Archbishop of Canterbury, and the Bishops of Winchester and Salisbury, no Abbats, and but a few of the great Noblemen; which was performed December 22. King Henry dying the first of that Month, there being but two and twenty days time, a short space for the People all over England, to have notice, meet, choose, and send their Representatives, if any such had been at that time: but it is clear from the Story, he was Set up and Crowned by a Faction, though he himself lays in this Charter, he was elected by the Clergy and Laity, which must be the Nobility; for here is not the least mention of the *Milites* or *liberi homines*, the Knights or Free-men, having any thing to do as Actors in this Affair, in the whole Relation.

Mat. Paris in his Narrative of this Transaction, in many things follows Henry, at this time Archdeacon of Huntingdon, who ends his History with the death of this King (save that Paris mentions a Convention of the *Magnates*, or Great Men at London, and that Stephen promised the Melioration of the Laws, according to their Will and Pleasure, which Huntingdon does not) who tells us that all the Bishops, Earls, and Barons that had sworn Fealty, and done Homage to the Daughter of Henry and her Heirs, consented that Stephen should be King; who tempting God, had invaded the Crown.

Radulphus de Diceto Dean of St. Pauls London, who lived in the Reign of King John, about the year 1210. adds, That Hugh Bigot, being Steward of the King's Household (he dying in Normandy) hastened into England, and made Oath before the Archbishop of Canterbury, That King Henry on his Death-bed, upon some differences which had happened between him, and his Daughter the Empress, did Disinherit her, and made Stephen Earl of Bolloin his Heir. Whereupon William Archbishop of Canterbury, giving too much credit to the words of the Steward, Consecrated Stephen Earl of Mortaigne, King at Westminster: Here the Noblemen, or Temporal Barons, must be the People, that is, the Laity that assented to Stephen's being King; for there

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there are no other but the Bishops and these, said to have done any thing in this Matter ; and it will be made appear upon examination of our Authors Records, that the People were not represented as at this day, in great Councils or Parliaments, before the 49th of Henry III. after the Conquest, and therefore no other Men can be understood by *Populus* the People or Laity than the Nobility. Nor can any discerning Person that duly considers these Relations of Stephen's advancement to the Crown, ever believe he was duly chosen or elected, but on the contrary, must confess, that he usurped it by the assistance of a Faction.

Another Instance he brings out of Roger de Hoveden, congregato Clero & Populo apud Clarendon. These words he only cites, and says the Learned Selden calls this a full Parliament ; 'tis granted to be a full great Council, as Fitz-Stephens calls it, or a Parliament of those times ; *Convocatur generale Concilium apud Clarendonnam, Rex proponit & Scribit Dignitates quas avitas & in Regno Angliæ Esse debere Dixit, Fitz-Steph. p. 20.* but yet for all these two words, he so much insists upon (though he never understood the meaning of them in this place) the Commons as at this day were not an Essential part of this Parliament : Nor are meant by, nor included in the word *Populus*. To clear the point we must make a large rehearsal of somewhat agitated in this general or great Council, and the occasion of calling it. Becket Arch-Bishop of Canterbury had promised King Henry II. at Woodstock, that he would really and without fraud observe his Laws. Et paulo post congregato Clero, & Populo, apud Clarendon, pœnituit Archiepiscopum quod ipse concessionem illam fecerat Regi. Et volens resiliere a pacto, dixit se in illâ concessionem graviter peccasse, & quod in hoc amplius non peccaret. Unde Rex plurimum in irâ adversus eum commotus, minatus est ei & suis exilium, & mortem. Venerunt ergo ad Archiepiscopum, Salisburienſis & Norwicensis Episcopi, & Robertus Leycestria, & Reginaldus Cornubiæ Comites, & duo Templarii scilicet Richardus de Hastings, & Toſtes de sancto Homero, & lacrymantes provoluti ad pedes Archiepiscopi, petebant, ut saltem propter honorem Regis, veniret ad eum, & coram populo diceret, se leges suas recepisse. Precibus igitur tantorum virorum Archiepiscopus vicius venit ad Regem, & coram clero & populo dixit, se leges illas, quas Rex avitas vocabat, suscepisse. Et concessit ut Episcopi leges illas susciperent, & ut illas custodire promitterent.

Tunc precepit Rex universis Comitibus & Baronibus Regni, ut irent foras & recordarentur legum Henrici Regis avi sui & eas in scripto redigerent ; quod cum factum fuisset precepit Rex Archiepiscopis, & Episcopis ut Sigilla sua apponerent Scripto illi, & cum cæteri prout essent ad id faciendum, Archiepiscopus Cantuariensis juravit quod nunquam, scripto illi apponeret, nec Leges illas confirmaret. That is, and a little after (Becket had granted to observe the Kings Laws) the Clergy and People or Laity, being Convened at Clarendon, the Arch-Bishop repented that he had made such a Concession to the King, and intending to run back from his Bargain, he said he had grievously sinned, in that Concession, and that he would sin no more in the like kind ; whence the King was much moved with Anger against him, threatening Banishment and Death to him and his : therefore the Bishops of Salisbury and Norwich, the Earls of Leicester, and Cornwall, and two Templars, Richard de Hastings, and

And whether he played not the same Pranks Usurpers use to do for their own security and gratifying of their friends, any man that will may be satisfied by the Historians of those times. Fol. 282. b. n. 10 Hoveden was a Priest and a Lawyer, and a Domestick in the Family of Henry II.

Ibid. The Story of Tho. Becket Arch Bishop of Canterbury at the Council of Clarendon.

There were only the King, Bishops, Earls, and Barons together.

The Earls and Barons were commanded out to prepare those Laws which the Arch-Bishop had promised before them, the King and Bishops.

Who were the Clerus & Populus in the great Council of Clarendon

Fol. 100. n. 20.

Mat. Paris enumerates the Constituent parts of the Parliament without any Commons.

Lib. 1. cap. 26.

See Regnum in Glossar. The Parliament at Clarendon, of whom it consisted. Col. 1385. n. 60. A.D. 1164.

Tit. Hon. f. 585.

Testes de Sancto Homero, came to the Arch-Bishop, and weeping, cast themselves at his feet, and beseeched, that at least for the Honour of the King, he would come to him, and say before the People, he would receive his Laws. **The Arch-Bishop, overcome by the importunity of so great Men, came to the King, and before the Clergy, and People, or Laity, said, He would receive those Laws which the King called Ancient**; and he granted that the Bishops should receive those Laws, and Promise to keep them. **Then the King commanded all the Earls and Barons of the Kingdom, that they should go out of the place where they were, and recount, or call to mind the Laws of King Henry his Grandfather, and reduce them into writing, which when they had done, the King commanded the Arch-Bishops and Bishops, that they should put their Seals to that Writing, and when the rest were ready to do it, the Arch-Bishop of Canterbury, swore that he would never set his Seal to that Writing, or confirm those Laws.**

By these passages it is evident that the Arch-Bishop was urged to come to the King and say *coram populo*, before the People or Laity, that he received the Kings Laws, and he comes to the King and confessed *coram Clero, & Populo*, before the Clergy, and People or Laity, that he had received them. Then the King commanded all the Earls, and Barons of the Kingdom (which must be the *Populus*, the People or Laity here meant, and no other) to go out from the Clergy, where they were all together, and recount the Laws of his Grandfather King Henry, and put them in Writing. And when that was done, commanded the Clerus, the Bishops only, to Seal them. From whence 'tis most clear, that the Earls and Barons only, in this great Council were expressed and meant by the word *Populus*, People or Laity.

And agreeable hereunto, *Mat. Paris* says of this very great Council or Parliament, *An. Dom. 1164. 10 Hen. 2. In presentia Regis Henrici apud Clarendon 8 Calend. Febr. presidente Johanne de Oxonia, de mandato ipsius Regis, presentibus etiam Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & Proceribus, Regni, facta est recognitio*, That is, in the year of our Lord 1164. 10 Hen. 2. in the presence of the King at Clarendon, on the 26th of January, John of Oxford presiding, according to the Kings Mandate, and the Arch-Bishops, Bishops, Abbats, Priors, Earls, Barons, and Great Men of the Kingdom present, there was made a Recognition, &c.

Quadrilogus thus expresseth this Council, *Rex apud Clarendone Regnum Convocat Universum, Quod cum presules, & proceres Convenissent, Exegit Rex instantius, ut promissa sibi solverentur*: The King called the whole Kingdom (that is the Nobility which in those days Constituted the Kingdom) to Clarendon, where when the Bishops, and great Men came together, he urgently presseth them, to make good their promise to him. *Gervase of Canterbury* says, *Congregati sunt presules, & proceres Regni Anglicani, apud Clarendoniam in festivitate sancti Hilarii*, the Bishops, and great Men of the Kingdom of England, met together at Clarendon in the Feast of St. Hillary.

What can be more clear by this enumeration of the constituent parts of this full Parliament, (as our Author and Mr. Selden agree it to be) than that the Commons were none of them, and that the Clerus & Populus in *Hoveden* were only the Clergy and Lay Nobility.

King

King John.

- A** The last Instance is of King John, that he was Crowned *mediante tam Cleri quam populi unanimi consensu & favore*. By the unanimous consent of the Clergy, and People or Laity. The same Roger de Hovedon a Lawyer, and Favorite of Henry II. in whose Court he lived until the Kings death, who continued his Annals to the fifth year of King John, in which he died, gives us an account, both how King John obtained the Crown, and also of his Coronation: King John when his Brother Richard died of the Wound he received before Chalutz Castle in Limosin, was in Normandy; from whence he immediately dispatched Hubert Arch-Bishop of Canterbury, William Marechal Earl of Strigoil, Geofry Fitz-Peter, and other Barons, to keep the Peace of England, who caused Citizens, and Burghers, Earls, Barons, and Free-men, to Swear Fealty, and the Peace to John Duke of Normandy, the Son of King Henry, the Son of Maude the Empress, against all men. And the same three, meeting at Northampton, Convented before them such as they doubted of, namely, David Brother to the King of Scots, Richard Earl of Clare, Ranulfe Earl of Chester, William Earl of Tutesbury, Walran Earl of Warwick, Roger Constable of Chester, William de Mowbray, and many other Earls, and Barons; and assured them that John Duke of Normandy, would do every one of them right, if they would keep Faith and Peace with him. On this condition the said Earls and Barons sware Fealty and faithful Service to John Duke of Normandy, against all Men.

- D** Not long after Duke John came into England, and there met at London, in expectation of him, Hubert Arch-bishop of Canterbury, John Arch-Bishop of Dublin, William Bishop of London, Gilbert Bishop of Rochester, John Bishop of Norwich, Hugh Bishop of Lincolne, Eustachius Bishop of Ely, Godfrey Bishop of Winchester, Henry Bishop of Excester, Sefrid Bishop of Chichester, Geofry Bishop of Coventry, Savarie Bishop of Bath, Herbert Bishop of Salisbury, Philip Bishop of Duresme, Roger Bishop of St. Andrews in Scotland, and Henry Bishop of Landaff: Robert Earl of Leycester, Richard Earl of Clare, William Earl of Tutesbury, Hamelin Earl Warren, William Earl of Salisbury, William Earl of Strigoil, Walran Earl of Warwick, Roger Bigot Earl of Norfolk, William Earl of Arundel, Ranulfe Earl of Chester, and many Barons. At which time Hubert Arch-Bishop of Canterbury Consecrated and Crowned John Duke of Normandy, King of England, upon Ascension-day, being the 27th of May, in St. Peters Church at Westminster.

- F** Matth. Paris, who wrote toward the end of the Reign of Henry III. and died in the year 1259. after he had written from Hovedon, what is here related, says, *Congregatis itaque apud Lundonias in adventu ejus, Archiepiscopis, Episcopis, Comitibus, Baronibus atque aliis omnibus qui ejus Coronationi interesse debuerunt, Archiepiscopus stans in medio omnium dixit, &c.* That is, the Archbishops, Bishops, Earls and Barons, and all others that ought to be present at his Coronation, meeting

Pitfias An.
Dom. 1204.
Fol. 450. b. n.
10, 20, 30, 40,
50.
Ibid. fol. 451.
a. n. 10, 20, 30.
How King
John obtained
the Crown.

Ibid.

A. D. 1199.

Fol. 197. n. 20.
&c.
Mat. Paris his
Account how
King John ob-
tained the
Crown.
See exact Hist.
of the succe-
sion in King
John.

K. John an U-
surper.

meeting at London, the Arch-Bishop standing in the middle of them all, made a Speech to them, and perswaded them to **Elex John Duke of Normandy King**, which they did, and he was Crowned as was said before: **He was set up and Crowned by Arch-Bishop Hubert and his Faction**, *Arthur Duke of Britain, Son of Geofry his Eldest Brother, being the Right Heir, and then about Fourteen years of Age.* But here is not the least mention of a **Great Council**, or the **Commons**, unless it be said, this Convention be one, as most certainly it was not, here were the Bishops and Temporal Lords only present, and Actors in this Transaction. There might be a great many of the *Commons Spectators* at this Solemnity; but the Bishops, Earls and Barons, were they, which acted and contrived the Crowning, and making him King, and they only were the **Clerus**, and **Populus**, the *Clergy* and *People*, or *Laity* here meant, the *Commons* having done nothing in this Matter, for ought what appears in the Story.

Preface p. 65.
50 Hen. 3.
m. 3.

Lastly, our Author says out of *Mat. Westm. f. 397. n. 50.* That *50 Hen. 3. per providentiam Cardinalis*, meaning the Popes Legat, *apud Kenilworth Clerus & Populus Convocantur*, which the Patent Roll of that year thus confirms; The King *à le Request de Honorable pier sire Ottobon legat de Engleterre son parlement Eust Summons à Kenilworth*, where the Statute, or *dictum de Kenilworth* was made, between the King and his *Communante*, or *Parlement*: *Rex primo, postmodum Clerus & Populus Juraverunt, quod Dictum inviolabiliter observarent*: These are Mr. Petyt's words, and all he hath from *Matth. of Westminster*, or the Patent Roll; and from hence and some such other stuff proceeding, concludes, That, he hoped, at length he had fully ascertained, and explained the Historians Phrase, *Clerus* and *Populus*, and proved it to be a *Parliament* from the Patent Roll of *Henry III.* wherein I know no man opposeth him; but I see not, that he proves from thence, that the *Commons* as now understood and represented, were in that *Parliament*, or were any part of the *Populus*. But I think the contrary rather appears from his Authorities, when fairly cited and duely understood.

No Commons
in that Parlia-
ment that
made the *Di-
ctum de Kenil-
worth*.

Fol. 397. n. 50.
f. 398. lin. 1.

First, *Mat. Westm.* tells us, that, *Favente Rege, per providentiam Cardinalis apud Kenelworth, Clerus & Populus Convocantur, Eligebantur ibidem duodecem persone, de Potentioribus procerum, & Prudentioribus Prelatorum, quibus dabatur potestas ordinandi sub statu Exheredatorum. Electa persona Jurabant, de Utilibus ordinandis; Rex primo, postmodum Clerus & Populus Juraverunt. Quod Dictum ipsorum, inviolabiliter observarent: Dictum Ergo Kenelworthia tale fuit, &c.* The King favouring his Intention, by the providence of the Cardinal, the Clergy and Laity were called together at *Kenelworth*, where were chosen twelve Persons, the most powerful of the great Men, and Wisest of the Prelats, who had power of Ordaining, and making Terms concerning such whose Estates were taken from them. The Persons chosen did Swear to do things advantageous to all; The King first, and afterwards the Clergy and Laity sware inviolably to observe their Decree, called the Decree or *Dictum* of *Kenelworth*, whereof the Historian gives only some Heads.

The

The Record runs thus: *Nostre Seignor Henry par la Grace Dieu*
Rois de Engleterre lan de son Coronement Cinquantisme, as otaves
de l'assumption nostre Dame á la Requeste le Honorable pere Sire Otte-
bon Legat de Engleterre son Parlement eust semons á Kenilleworth,
acorde fu & grante per Comun assen & Comun Conseil des Evesques, Ab-
*bes, Priors, Contes, Barons & tuz * autres ke sis Persones suz Escrites,*
Coeft a scavoir le Evesque de Excestre, Levesque de Bai, Le Estit de
Wircestre, Sire Aleyn la Zusche Sire Roger de Sumery & Sire Robert
Walerand par lur serment que itokes firent elisent autres sis qui Miens
seient en Sospescon, & meuz sachent & voillent solonc lur intendment,
des queus vi uns sera prelaz, & les cync seront chevalers & ices doze
jurront sor seinz Evangilles, &c. Our Lord Henry, by the Grace of
 God King of England, the Fiftieth year of his Reign, in the Octaves
 of the Assumption of our Lady, at the Request of the honorable Fa-
 ther Sir Ottobon Legat of England, summoned his Parliament at Ke-
 nelworth, where it was agreed and granted, by common Assent,
 and Common Counsell of the **Bishops, Abbats, Priors, Earls,**
Barons, and all others, that six Persons under written, that is to
 say, the Bishop of Excestre, the Bishop of Bath, the Elect of Wor-
 ceſter, Sir Alan Zouche, Sir Roger Sumery, and Sir Robert Walerand,
 by their Oath there made, should choose six others, no ways sus-
 pected, who knew best, and would, according to their understand-
 ing, do what was best for the Security and Peace of the Land, of
 which six, one was to be a Bishop, and the other five Chevaliers or
 Barons; and those twelve swore upon the Holy Gospels, &c.

The twelve Commissioners that made the *Dicium de Kenelworth*,
 are all named in the Preamble of it, and were these, *W. Exoniensis,*
W. Bathon. & Wellens. W. Wigorn. & R. Menevens. Episcopi. Gil-
bertus de Clare Comes Glouc. & Hertfordia, Humfridus de Bohun Comes
Herefordia, Philippus Basset, Johannes Baliol, Robertus Waleran,
Alanus de la Suche, Rogerus de Somery, & Warinus de Bassingbourn,
super facto Exheredatorum, habentes á Domino Rege, & ab aliis Ba-
ronibus Consiliariis Regni, & proceribus Anglia plenariam potesta-
tem, &c. Walter Bronescome Bishop of Excestre, Walter Giffard Bi-
 shop of Bath and Wells, Walter de Cantilupo Bishop of Worcester, R.
 Bishop of St. Davids, Gilbert de Clare Earl of Gloucester and Hertford,
 Humphry Bohun Earl of Hereford, Phillip Basset of Wycomb, John
 Baliol, Robert Waleran, Alan Zouche, Roger de Sumery, Warinus de
 Bassingborn. Having full power to determine concerning the Fact,
 of such as were dispossessed of their Estates, from the King, and from
 other Barons, Counsellors of the Kingdom, and the great men of
 England, &c.

Phillip Basset of Wycomb in Buckinghamshire, was a great Baron,
 and made Justice of England the 45th of Henry the Third; he was
 the last that stood and fought stoutly for the King in the Battle
 of Lewes, was there taken Prisoner, and sent to Dover Castle.

Alan Zouche of Ashby was a Baron in great Employments under
 King Henry all his Time, in 45th and 46th of his Reign, he was
 Warden of all the King's Forreſts, South of Trent, and Justice Iti-
 nerant of the Counties of Southampton, Buckingham, and Northampton.

Pat. 50. Hen. 3.
M. 9.

* i. e. Milites
& liberi Ho-
mines; the
smaller Tenents
in Capite.

How the Par-
liament was
summoned,
will be declar-
ed, when we
spe k of King
John's Char-
ter, or *Magna
Charta.*

Biblioth. Cot-
ton. Claud.
D. 2. f. 132. b.
No Commis-
sioners among
the Commis-
sioners, that
made the *Di-*
cium de Kenil-
worth.

See Godw. de
Præfultinthe
Bishops.

Dugd. Baron.
Tom. 1. f. 384.
col. 1, 2.

Ibid. fol. 629.
col. 1.

Ibid. fol. 524.
col. 1, 2.

John Baliol a great Baron, he had thirty Knights Fees, 13 Hen. 3. always faithful to the King, and taken Prisoner at *Lewes*.

Ibid. fol. 671.
col. 2.

Robert Waleran was a Baron, and in the Battle of *Lewes*, and in the Battle of *Evesham* with Prince *Edward*, and had several great Employments under King *Henry*.

Ibid. fol. 680.
col. 1, 2.

Warin de Bassingborn was a Baron, and always faithful to the King, and at the Battle of *Evesham* with *Robert Waleran*. A

Ibid. fol. 613.
col. 1, 2.

Roger de Sumery had one and fifty Knights Fees, 29 Hen. 3. in the Seventeenth of the same King, all his Lands in *Worcestershire* were seized, for neglecting upon Summons to take the Honor of Knight-hood, he was made Prisoner at the Battle of *Lewes*, fighting stoutly for the King.

No Commons in the Parliament, that appointed Commissioners to make the *Dictum de Kenilworth*.

If this Gentleman could have prevailed with himself, to have fairly cited this Historian and Record, certainly he could not, with any pretence of understanding, have produced them to prove, that the Commons, as now Represented, were in this Parliament: For the Record tells us what, and who the *Clerus & Populus* was, which the King called to *Kenilworth*, namely, the Bishops, Abbots, Priors, Earls, Barons, and all others; which all others, are sometimes expressed at large, by *Milites, liberi homines, or liberi Tenentes*; and sometime simply and inclusively by the words, & *omnes alii*, who were the smaller sort of Tenents *in Capite*, as will be evident by what shall be further said in that point hereafter. B

Nor any Commons amongst the *Clerus & Populus*, the Clergy and Laity, that Constituted this Parliament.

By this Clergy and Laity, were six Commissioners chosen at first, who had Power to choose six more, all the Twelve, answer the Historians Description of them, in general. That they were of the more Potent of the great men, and more Prudent of the Prelates. And the *Dictum* it self tells us particularly the names of the four Bishops, two Earls, and six Barons, that made up that number, and informs us, that they had their Power from the King, and from other Barons, Counsellors of the Kingdom, and the *Proceres* or great men of *England*, which could be no other than the Bishops, Abbots, Priors, Earls, Barons, and the *all others* mentioned in the Record; and out of these it will be a hard matter for any observing Person to pick out one Commoner, though it's easie for this Writer to find out Hundreds. C

P. 72.

Having dispatched the second Proposition, and examined his Preface, I shall still pursue his Method, and see, whether by the Records he makes use of, he hath proved his first Proposition, that is, the Commons, as Represented by Knights, Citizens and Burgeesses, to have been a third Estate, or an Essential and Constituent part of the Parliament, before the 49th of *Henry* the Third. D

His

His First Argument Considered.

A **T**HE Authors First Argument is, from the Claim and Prescription of the Burrough of St. Albans, in the Eighth of Edward the Second, that it had sent two Burgeses to Parliament, as other Burroughs had, as well in the time of his Father King Edward the First, as in the time of his Progenitors, and if so, in the time of King John his Grandfather, and so before Henry the Third; by what he hath laid together, by picking here a piece and there a piece out of this Record, he hath made a very specious Argument to prove there were, as at this day in the time of King John at least, Burgeses sent to the Parliament: and if there were no more in the Record than what he hath Transcribed, I could not but be of his mind. The whole Record here follows,

P. 3. & 7. 8. &c.

C *Ad Petitionem Burgensium villa de Sancto Albano, suggerentium Regi, quod licet ipsi tenent villam prediam de Rege in capite, & ipsi sicut ceteri Burgenses Regni ad Parliamenta Regis cum ea summoniri contigerit, per duos Camburgenses suos venire debeant, prout totis retroactis temporibus venire consueverunt pro omnibus serbitiis Regi faciendis, que quidem serbitia, iidem Burgenses & Antecessores sui Burgenses villa predicta, tam tempore Domini Edwardi nuper Regis Anglia, patris Regis, & progenitorum quam tempore Regis nunc semper ante instans Parliamentum, ut premitatur, presterunt; Nomina quorum Burgensium sic predicta villa ad Parliamentum Regis venientium, in Rotulis Cancellaria, semper irrotulata fuerunt. Nihilominus Viccomes Regis comitatus Hertfordia, ad procuracionem, & favorem Abbatis de Sancto Albano, & ejus consilium, Burgenses predictos pramunire, seu nomina eorum retornare, ut ipsi serbitium suum predium facere possunt penitus recusavit, in contemptum Regis & Burgensium predictorum prejudicium & exheredationis periculum manifestum, super quo petunt remedium opportunum.*

Parl. 8 Ed. 2. n. 233. The Petition of the Burgeses of St. Albans.

R. est per Consil.

E *Scrutentur Rotuli, &c. de Canc. si temporibus progenitorum Regis, Burgenses predicti solebant venire, vel non. Et tunc fiat eis super hoc Justicia, vocatis evocandis si necesse fuerit.*

Responso.

In English thus.

F Upon the Petition of the Burgeses of the Town of St. Albans, suggesting to the King, That although they hold the Town aforesaid of the King in Chief, and they as other Burgeses of the Kingdom, ought to come to the King's Parliaments, when they should happen to be Summoned, by two of their Fellow Burgeses, as they were used to do in all past times, for all Services which were to be performed to the King. Which Services the same Burgeses and their Predecessors, Burgeses of the said Town, have performed,

The Controversies about Members of the Lower House were then referred to the King and Council, in the time of Edw. 2.

performed, as is before declared, *as well in the time of Edward, late King of England, Father of the King and his Progenitors, as in the time of the King that now is, always before this present Parliament*: The Names of which Burgeses for the said Town, so coming to the King's Parliaments, were always inrolled in the Rolls of the Chancery; Nevertheless, the King's Sheriff of the County of Hertford, by the favor and procurement of the Abbot of St. Albans, and by his advice refused to warn the said Burgeses, or return their Names according to his duty, **that they might do their Service aforesaid**, in contempt of the King, and prejudice of the Burgeses aforesaid, and *manifest danger of disinheriting of them*, for which they crave an opportune Remedy.

A

It was answered by the Council.

The Answer
to the Petition.

Let the Rolls of Chancery be searched, &c. if in the time of the King's Progenitors, the Burgeses aforesaid used to come or not, and then let them have Justice in this Matter, and such as have been called, may be called, if there be necessity.

B

We find, in this Record, that the Burgeses of St. Albans, and of the other Burroughs, did, and ought to come to the *Parliament by reason of their Tenures in Capite, for that it was in lieu of all other services to be performed to the King in respect of that Tenure.* And then they say, in this Petition, that the Burgeses of St. Albans had performed these Services, as well in the time of Edward the First, and his Progenitors, as in the time of Edward the Second, always before that present Parliament, and urge the neglect of the Sheriff in not giving notice to the Burgeses, and returning their Names as a prejudice to them, *and a manifest danger of their being disinherited of this easie Service*; and having some other great or more hard Service put upon them, which in all probability must have been, if once they had lost this Service of coming to the King's Parliaments, which was in its self a discharge from all other Services.

C

D

St. Albans sent
Burgeses to
Parliament,
not as a Burgh,
but as a Town,
that held of
the King in
Capite.

All this our Author hath concealed, to impose upon his Readers, and to make his Assertion to be believed by all such as are inclinable to it, or that have a Veneration for our *English* Records; for 'tis evident, the **Burgeses of St. Albans** claimed not, nor prescribed to come to Parliaments *meerly* as from a **Burrough**, but as from a *Town that held in Chief of the King*; and this Service was incident to their Tenure, and was such as the King's Progenitors had accepted *in lieu of all Services due by reason thereof.*

E

King and His
Council
Judges, whether,
and
when Burgeses
ought to
come to Parliaments.

And further, the Answer to this Petition is Remarkable, for if it did appear by the Chancery Rolls, that the Burgeses of St. Albans were wont to come to Parliaments in the times of the King's Progenitors, *then such as have been called, should be called when there was necessity for it.* Hence 'tis clear, the **King** and his Council were **equally Judges** when it was necessary to call them, and for them to come; as they were of their Right, and pretences to come.

F

It

It hath been objected, by one that seldom knows or understands what he says, that *Evocatis Evocandis* cannot be understood of calling Burgeses to Parliament, but those words are so to be interpreted, that if after the Rolls were searched, farther tryal, or hearing of the Parties were necessary, they should be called, and their Reasons heard.

The Author
of *Fus Anglor.*
ab antiquo.
p. 30.

- A To this it is answered, that every Plea ought to be triable, either by the Country, if matter of Fact, or by the Justices, if matter of Law, or by the Record it self, if it consist in matter of Record, for the Law doth give so much Honor and Credit to Records, that they shall be tried only by themselves; This Trial therefore depending wholly upon Record, the words cannot be understood, of calling Parties in order to any farther Trial.

Cokes Reports
part 9. the
Case of the
Abbat of *Strata
Marcella.*

B

The Second Argument considered.

- C OUR Author's Second Argument is grounded upon some parts of three several Records in the Fifteenth of King *John*, which he hath again picked out to serve his purpose, and impose upon his Readers. Yet in his Appendix he hath Printed two of these three Records, and wholly omitted the third, viz. the most necessary one, that concerns the Cities and Burghs, which he calls the great Record, and by which he endeavors to prove, that the great Cities and Burroughs, did send their *Proxies* and *Representatives* to the Common Council, or Parliament, before the Seventeenth of King *John*; but instead of the Record it self, he D Prints and Publishes only the Direction of it to the Cities and Burroughs. And says, that the King being in *partibus transmarinis*, beyond the Seas wrote to thirteen Cities and Burghs, there named, and all the great Burroughs of the Demeafnes of the King, giving them an account of his Proceedings and Successes in his War against the French, and that the Pope, by his Letters, had Released the Interdict under which the Kingdom then lay, which the King had then sent to *Peter* Bishop of *Winton*, Chief Justice of *England*; and therefore desired that they would believe what the Bishop E should speak to them, that *Concilium & auxilium vestrum, ad honorem nostrum & vestrum & statum regni nostri in melius commutandum efficaciter super hoc apponatis*, and that *Majori festinatione expeditur. Teste Apud Rupellam 6 die Martii*, that they might effectually give their Advice and Aid concerning the Relaxation of the Interdict to the King's Honor and their own, for the bettering the State of the King, and that very speedily; Witness Our Self at *Rochel* the sixth day of *March*. F

P. 13, 14, 15
16.

P. 158, 160.

P. 14. lin. 2.

Ibid. lin. 13.

Ibid. p. 15.

Ibid. & p. 16.

None of these last Words, nor indeed not many of the former, do belong to, or are to be found in this great Record (as he calls it) but he takes them out of another, and applies them to this; and therefore for the discovery of this Artifice, and unhandsome dealing with, and false Application of Records, I must, though it prove

tedious to the Reader, Transcribe both these Records, the first whereof follows.

Pat. 15. Johannis, p. 2. m. 2.
Richard I. died April. 6. 1199.
The Writ to the Nobility, &c.
K. John committed the Custody of England to P. Bishop of Winchester and made him Justiciary during pleasure at Portsmouth, Feb. 1.
Pat. 15. Johannis, m. 4. n. 11, 12.

Rex Baronibus, Militibus & omnibus fidelibus totius Anglia salutem; Sciatis quod die Martis proxima ante medium quadragesimæ suscepimus Literas Domini Papæ in partibus Picævia de factâ relaxatione Interdicti Anglia, quas destinavimus venerabili Patri Petro Winton, Episcopo Justiciario nostro, & vos regamus attentius tanquam dilecti & fideles nostri, de quorum Dilectione & fidelitate plene confidimus, quatenus secundum quod Idem Episcopus vobis dicit Concilium & Auxilium vestrum, ad honorem nostrum & vestrum, & statum Regni nostri in melius commutandum efficaciter super hoc apponitis, ut vobis inde, ad uberes teneamur gratiarum Actiones & ut Dilectionem, quam hactenus erga nos habuistis in hoc, merito dehinc commendaremus. Uniuersis vestrum si fieri potest, Literas nostras super hoc transmissimus, sed ut negotium illud quod & nobis & vobis ad commodum cedat & honorem cum majori expediretur festinatione, has Literas, &c. Teste meipso apud Rupellam vi. Die Martii.

Vid Gloss. verb. fidelis, The King Wrote particularly to William Marshall, and the Earls. At this time the Interdict was not actually Released, but upon the 29. of June following, Mas. Paris, fol. 249. n. 50. Secundum quod idem Episcopus vobis dicit.

The King to Barons, Knights, and to all * Feudataries, or Vassals through England, Greeting. Know ye, that being in Poitoun on Tuesday next before the middle of Lent, We received the Popes Letters concerning the Release of the Interdict of England, which We sent to the Reverend Father, Peter Bishop of Winchester, our Justiciary; and We require you earnestly, as Our well-beloved, and Feudataries, of whose Kindness and Fidelity We have a full confidence, that according to what the same Bishop shall say unto you, ye may effectually give your advice and aid in this matter, to our Honor and yours, and for changing the state of the Kingdom into the better: That therefore We may be obliged to give you greater thanks, and that in this Affair We may worthily commend the Kindness you have had towards Us hitherto: We had sent Our Letters to every one of you, if it might have been done, but that the business might redound to Our and your Honor and Profit, it ought to be dispatched with greater hast. Witness my Self at Rochell the sixth day of March.

P. 158, 159.
The Author makes one Record out of two pieces of Different Records, from which being put together, he frames this Argument.
Pat. 15. Johannis, p. 2. m. 2.
The King's Letter to the Cities and Burghs.

After this Record in his Appendix, he subjoyns the Names of the Cities and Boroughs with the same Circumstances, and after the same manner as they follow at the bottom of the next Record, upon the Patent Roll of this year in the Tower, there being upon that same Roll, not the least mention or note of them under this foregoing Record.

Rex probis hominibus Cant. salutem, sciatis Nos & Fideles nostros quos nobiscum adduxerimus in Picav. sanos esse & Incolumes & in gaudium & Letitiam amicorum, & confusionem inimicorum nostrorum. Negotia nostra gratiâ Dei incepimus expedire, Die autem Dominicâ proximâ ante medium Quadragesimæ Obsedimus castrum de Milefen, quod Porcelinus de Mansy contra nos munierat, & nos die Martis sequenti castrum illud vicepimus, & ibi suscepimus per Manus Fratris William de Sancti Audoeno Literas Domini Papæ de factâ Relaxatione interdicti in Anglia quas destinavimus V. P. N. P. Episcopo Winton Justiciario nostro; & vos rogamus attentius, quatenus secundum quod Idem Episcopus vobis scire

scire faciat, ad Interdictum illud Relaxandum in prestando Nobis subsidium efficaciter impendatis. Ita quod Dilectionem vestram merito commendare debeamus. Scituri quod presteritis, & quod nobis ad hoc feceritis, plene vobis reddi faciemus cum gratiarum Actione. Teste Meipso apud Rupellam viii. Die Mart.

No Concilium, or Auxilium.

A

Eodem modo scribitur { Majori & Baronibus Lond.
Majori & probis hominibus Winton.
Probis hominibus Northampton.
Linc.
Ebor.
Oxon.
Glouc.

B

Eodem modo scribitur omnibus Burgis & Dominicis Regis.

{ Heref.
Exon.
Wigorn.
Cantebr. & Hunt.
Bristol.
Norwic. } Dat. eadem.

C

The King, To the Good Men of Canterbury, Greeting. Know ye, that We and Our Feudataries, or Soldiers, which We brought with Us into Poitou, are safe and sound, And to the Joy of Our Friends, and Confusion of Our Enemies, by the Grace of God We have entred upon Our Business. On Sunday next before Mid-Lent We besieged the Castle of Milefen, which Porcelin de Mansy had Fortified against Us, and on the Tuesday following We took it by force; And there We received it by the hands of the Brother of William of St. Owen: The Pope's Letters about Releasing the Interdict in England, which We have sent to Our Reverend Father Peter Bishop of Winchester, Our Justiciary. And We earnestly require you, that according to what the same Bishop shall give you to understand, you effectually apply your selves to give us a Subsidy, toward the Relaxation of the Interdict, so that We may worthily commend your Kindness, knowing, that what you shall give, or lend, or do for Us, upon this occasion, shall be fully repaid, with Thanks. Witness Our Self at Rochell, the eighth day of March.

E

The King Wrote in the same manner. { To the Mayor and Barons of London.
To the Mayor and Good Men of Winchester.
To the Good Men of Northampton.
Lincoln.
York.
Oxford.
Gloucester.

F

After

See the Kings Letter directed to William Earl Marshall. Rot. par. 15. Johannis, p. 2. m. 1. Vobis scire faciat, nos vobis Dicet.

After the same manner the King Wrote to all Burghs which held of him in *Capite*.

{ Hereford Excester Worcester Cambridge, and Huntington Bristol Norwich	}	Of the same Date.
---	---	-------------------

A

The Author unhandfomly annexeth the Direction and latter part of the Record to the Burghs, to the Writ directed to the Barons, p. 159 & p. 14, 15, & 16. jumbling and mixing them together, as one Record.

This Record or Letter of the King to the Cities and Boroughs, our Author hath concealed, and (as I intimated before) placeth under the first Record, or Letter directed to the Barons, Knights, &c. The last part of this Record, concerning the Cities and Boroughs, *Eodem modo scribitur*, &c. as before recited, and makes it part of that Record.

B

These two Records are very much different one from the other, and differently worded. In the first the Barons, Knights, &c. were to do *Secundum quod Episcopus diceret*, according to what the Bishop should say, or speak to them, and *concilium & auxilium apponere*, to give Advice and Aid. In the second, to the Cities and Boroughs, the Citizens and Burghers were to behave themselves, *secundum quod Episcopus scire iisdem faceret*, According to what the Bishop should give them to understand, by sending to them in all probability these Letters, and enforcing them by one of his own, to be Read in their Common Halls, or Burghmotes, to perswade them, *ad Interdictum relaxandum efficaciter subsidium impendere*, effectually to yield their Assistance towards the Releasing the Interdict, and so as the King sayes, *quod prestiteritis ad hoc plene vobis reddi faciemus*, that what they contributed he would fully repay them. And this Letter to the Cities, &c. bears date the eighth of March, whereas the Letter or Record he uses to serve his turn, to the Barons, &c. bears date March the sixth, two days before, and so it is upon the Roll. This Letter to the Cities and Burghs, which held of the King in *Capite*, was only to borrow Money of them towards the Charge of releasing the Interdict. Nor hath it any ways the Form of a Precept, or Writ of Summons to a Great Council or Parliament: Nor is there in it the least hint, or directions given to the Cities or Boroughs for sending their Proxies and Representatives (as he calls them) to any Great Council: Nor doth it direct, that every individual Citizen or Burghers, or any at all, should go to hear what the Bishop would speak to them; But he was to let them know the Kings mind by Message, or Writ to them, to lend the King Money upon this particular occasion: And yet he confidently affirms, he hath proved, that the Citizens and Burghers had their Summons to Parliament 16 *Johannis*, by a particular Writ (meaning this) distinct from the Lords.

C

D

E

F

P. 16.
They were *subsidium impendere* only, not *Concilium & Auxilium apponere*, as 'tis said in the Writ to the Barons.
P. 14.

P. 20.

I confess, the first Record carries with it much probability that Peter Bishop of Winchester, had Commission and Authority to call a Great Council, and that this very Letter was a direction to that purpose;

purpose; and a short Narrative concerning the Interdict will make it clear.

A The Original of it, was a Quarrel between King *John* and the * Pope, about making an Archbishop of *Canterbury*; the King was very desirous to have *John de Grai* Bishop of *Norwich*, to be Archbishop. And gave the Monks a *Conge D'eslire*, who unanimously choose him, and the Prior declared him elected; yet some of the Monks had clancularly chosen one *Reginald* their Sub-Prior, Archbishop, both Parties apply themselves to the Pope, to confirm their Elections; he callates both, and commands the Monks of both Parties, by vertue of their Obedience, and under a Curse, to choose *Stephan Langton* a Priest, Cardinal, Archbishop, and they fearing to be Excommunicated, elected him, though against their Minds; whom the Pope Consecrated, and Writes to the B King to receive him to the Archbishoprick, being Canonically elected.

C At which, being very angry, he charged the Monks with Treason, for choosing his professed Enemy Archbishop. Who, though an English Man, was always educated at *Paris* amongst his Enemies; and expelled them the Kingdom as Traytors, and writes to the Pope that he had subverted the Liberties of his Crown, and that therefore he would Prohibit all People going to *Rome*, and from making Appeals thither, for that they should receive Justice and Judgment in all things at home.

D The Bishops, by vertue of their Obedience to the Apostolick See, by their Letters gave notice, they would receive and obey *Langton* as their Pastor; but the King not receding from his purpose, the whole Kingdom was put under an Interdict, *March 23. 1208.* The Bishops of *London, Ely, and Worcester*, executing it at the Pope's Command, and then they and the Bishops of *Bath and Hereford* went privately out of *England*.

E The King incensed with these Proceedings, Banished the Bishops, put their Bishopricks, Abbies, and Priories under the Custody of Lay-men, Confiscated their Rents and Goods, caused their Barns and Granaries to be broken up, and their Corn to be sold. And also the Forarier, or Domestick Concubines of the Clergy to be seized, and taken into Custody, and by the Redemption of them, raised a great Sum of Money: After this, the Pope, by the advice of his Bzerben the Cardinals, commanded the Bishops of *London, Ely, and Worcester*, by Name to Excommunicate the King; which Sentence, though the Bishops dare not execute, yet it was published among the People, much to the prejudice of the King.

F In the year 1211. *Pandulph*, a great Familiar of the Pope, and *Durand* a Templar, were sent from him to make Peace inter Regnum & Sacerdotium, between the King, Temporal Barons, and the Bishops, &c. or between the Laitie and Clergy. The King freely granted, that the Archbishop and Monks of *Canterbury*, and all the proscribed Bishops, might return in quiet, and remain in their former Condition, but because the King would not

An Interdict is an Ecclesiastick Censure, Prohibiting the Administration of the Sacraments, the Burial of the Dead, and all or most Divine Offices, *Mat. Paris, fol. 213. n. 30. 40.*

* Pope Innocent 3d. Two Arch-Bishops elected. *Mat. Paris, fol. 221. n. 10, 40, 50.* The Pope Callates both Elections, &c. *Ibidem & fol. 223. l. 3. Ibidem, n. 30, 40.*

Ibidem, n. 50. Ibid. fol. 224. n. 20, 30. The King threatens to prohibit Appeals to *Rome*. *Ibid. fol. 226. n. 10.*

Ibid. n. 30. Ibid. n. 40. The Kingdom put under an Interdict. *Ibid. n. 50.*

Ibid. fol. 227. l. 1.

Ibid. fol. 228. n. 30. The Pope commands the Bishops of *London, Ely, and Worcester*, to Excommunicate the King by name. *Pandulph* sent to make Peace. *Ibid. fol. 230. n. 40, 50.*

Ibid. fol. 231.
n. 10.
Ibidem.
The Pope Absolves the
Kings Subjects
from Obedi-
ence.
Ibid. n. 20.

not make satisfaction to the Archbishop and Bishops, for their damages sustained, and their Goods confiscated; these Nuntios or Messengers returned without effecting any thing, and upon their Report to him, the Pope admiring his Contumacy, Absolved all his Subjects, high and low, rich and poor from their Obedience and Subjection. And upon pain of Excommunication, commanded them all to avoid him at his Table, in his Councils, and in ordinary Discourse. Such of the Great Men as adhered to the King, Bishops, Clergy, Temporal Barons, &c. had the Character of Evil Counsellors, part of whom Paris enumerates, viz. nine and twenty Earls, Barons, and Great Men, and three Bishops.

A

Ibid. fol. 252.
n. 30.

Translated
verbatim out
of Mat. Paris
Historiogra-
pher to Hen. 3.
Son to King
John, and a
Monk of St. Al-
bans, and a Fa-
vourer of these
Practices of
the Clergy.
Ibid. n. 40.
The Pope de-
posed King
John.
And gave his
Kingdom to
the King of
France.

The year following, Anno 1212. Stephan Langton Archbishop of Canterbury, the Bishops of London and Ely went to Rome, and informed the Pope of the many Rebellions and Enormities King John was guilty of, from the time of the Interdict to that day, indefatigably lifting up the hand of Rage and Cruelty against the Lord and Holy Church. And then humbly beseech the Lord the Pope, that he would take some care to relieve the English Church ready to perish; and in a great fit of Sorrow for the Desolation of the Kingdom of England, by the advice of the Cardinals, Bishops, and other Wise men, Sententially defined, that John King of England should be deposed, and another more worthy appointed to succeed him, and to that purpose wrote to the most potent Philip King of France to execute this Sentence, and that if he would take the labor upon him to Dethrone the King of England, he should have remission of all his Sins, and he and his Successors possess that Kingdom by perpetual Right. And further the Pope wrote to the great Men, Soldiers, and Warriors of many Nations, that they would take upon them the Crusade to that purpose, and follow the King of France as General in this Expedition, in viadicating the Injury done to the Universal Church: With this Message the Pope sent Pandulphus, and the Archbishops and Bishops aforesaid into France, from whom Pandulph had private Instructions, that if the King would repent and make satisfaction to the Lord, and the Roman Church, and all others concerned in that business, and submit to a form of Peace drawn by the Pope, then he might find favor from the Apostolick See.

B

C

D

Ibid. n. 50.

Ibid. fol. 233.
n. 20.
A. D. 1213.
A Council be-
tween the En-
glish Bishops
and King of
France, &c.
Ibid. n. 30, 40.
Ibid. fol. 234.
n. 30, 40.
Pandulph af-
frights King
John.

In the month of January next year, the Archbishop of Canterbury, Bishops of London and Ely, came from Rome, and held a Council with the King of France, the French Bishops, the Laity and Clergy, and promulgated the Sentence against King John. The King of France having raised a great Army to invade England; of which King John having notice, raised also a great Army, and expected his Arrival upon the Coast of Kent near Dover. Pandulph sent two Templars, to let the King know he desired to speak with him, by whom the King desired he would come to him with speed. They meet at Dover, when Pandulph tells him, what a vast Navy and Army the King of France had at the Mouth of the River Sein ready to set sail, and take Possession of his Kingdom, and doubted not but to make short work of it, having, as he boasted, Charters or Assurances from most of the Great Men of England of their Fidelity and Obedience to him.

E

F

Being

Being terrified and confounded with this News *King John* by the perswasion of *Pandulph* submitted to the form of Peace as it was drawn up by the *Pope*; in which he sware to stand to the Commands of the *Pope*, before his *Legat* or *Buncio*, in all things, for which he had been Excommunicated; and to make full Restitution and Recompence for all things which had been taken away from the Clergy or Laity by reason of the *Interdict* or present Quarrel.

Ibid. fol. 235. n. 10, 20. He submits to a form of Peace drawn by the Pope.

A

But this was not a sufficient Submission, he must become Homager to the *Pope*; and his Offence was so great against God and his Mother the Holy Church, that nothing but granting his Kingdoms of England and Ireland to the *Pope*, and making them St. Peter's Patrimony, and becoming his Vassal could expiate it; And he must also declare that he did all this freely and voluntarily by the advice of his Barons, and not compelled by Fear, or the Force of the *Interdict*. This done, *Pandulph* returns into France with 8000 l. part of the Restitution Money, for damages which was to be Paid to the Arch-Bishop and other Bishops, which were there, (as they pretended in Exile.)

Ibid. fol. 236. n. 40, 50, &c. 237. n. 10, 20, 30.

There is the whole Grant and Form of King John's doing Homage to the Pope on the Eve of the Ascension.

A. D. 1213. King John is forced to become the Pope's Vassal. Ibid. f. 236. n. 10 f. 237. n. 40. Ibid. 238. n. 50.

B

King John now thought himself at ease, and cast about him how to be even with the King of France, and sets the Earl of Flanders to invade his Kingdom on the East part, while he passed over into Poitou with an Army, and entred France on the West part to recover what he had lost: to which purpose he assembles a great Army at Portsmouth; but when they came together, the Great Men and Barons refused to follow him unless he were absolved from the Sentence of Excommunication. The King much moved at this denial, sent the Charters or Letters of Assurance of 24 Barons to the proscribed Bishops, that they might return into England, without the least fear, and receive recompence for all damages, according to the form of Peace. They landed at Dover the 16th of July, and the 20th of the same Month the King was absolved, Swearing Fealty and Obedience to the *Pope*, &c.

Ibid. fol. 239. lin. 1.

The Barons deny to follow the King unless he were Absolved, &c. A. D. 1213. The King and 24 Barons send the Bishops a safe Conduct to return.

Ibid. l. n. 6. n. 10, 20. The King is Absolved, and Swears Fealty and Obedience to the Pope. Ib. n. 30.

D

After this Absolution he made haste to Portsmouth, that he might pass into Poitou, committing the Government of the Kingdom to Geofrey Fitz-Peter, and the Bishop of Winchester, with direction that they should Order all the Affairs of the Nation with the Advice of the Arch-Bishop of Canterbury. When the King came to Portsmouth, his Great Men, Knights, and such as held by Military Tenure, complained they had been there so long in expectation of their Voyage, that all their Money was spent; and unless he would furnish them out of his Treasury, they could not go with him, so that nothing was further done in this Expedition.

E

King John seeing this design frustrated, and himself deserted, contrary to their Tenures and Duty, he raised Force to reduce them to Obedience; the Arch-Bishop told him he violated his Oath he took at his Absolution, and that he could not make War against any one without the Judgment of his Court. And the King proceeding, he further told him, that unless he did quickly desist, he would Anathematize all those that should take Arms against any Man before the Relaxation of the *Interdict*. By which means he caused the King to give over prosecuting the Barons by Force, and left not the King

Ibid. n. 50.

Ibid. f. 240. l. 1.

G

until

A. D. 1213.
Ib. & fol. 240.
n. 10.

Ib. & f. 245.
n. 20.

Ib. f. 246 n. 30.

Episcopi &
Magnates
Regni.
Ibid. n. 50.
A Treaty inter
Regnum & Sa-
cerdotium
Now 12 times
as much.

Ibid. fol. 247.
n. 20.

A. D. 1214.
pat. 15.
Johan. m. 7. n.
19. apud
Reading.
Paru ut supra.

A. D. 1214.
Regni Johan-
nis Regi 15.
Ib. f. 248 n. 20.

The Matter of
the Kings Let-
ters to the Ba-
rons and
Burghs.
Ib. f. 249 n. 10.

Forty thou-
sand Marks to
be paid to the
proscribed
Bishops.

until he had obtained a competent day for them to answer in his Court. But probably before that day came, or else to protect them from the Execution of the Justice of the Kings Court, viz. On the 25th of August that year, he caused a great Meeting of Bishops, Abbats, Priors, Deans, and Barons at London, where they enter into a Confederacy against the King, when they should have a fit opportunity, and grew so troublesome to him about their pretended Liberties, that he sent to the Pope, promising him great Rewards to Excommunicate them.

But about next Michaelmas following, Nicholas Bishop of Cusculum, the Popes Legat came into England, ut dissensiones inter Regnum & Sacerdotium, autoritate Apostolica reformaret, that he might compose the dissensions between the Temporal Nobility, and the Clergy, by the Apostolick Authority, and there was a Meeting of the Bishops and Great Men of the Kingdom, before the King and Cardinals at London, & tractatum ibidem per triduum inter Regnum & Sacerdotium de damnis, &c. And there was a Treaty between the great Men and Bishops for three days, concerning the damages of the Bishops, &c. when the King offered 100000 Marks as a full satisfaction for them all; The Legat perswades the Bishops to accept this Offer; they suspect the Legats favour to the King, and had several other Meetings at Reading and Walingford, about the state of the Damages, and on the 12th of December, the proscribed Bishops received 15000 Marks more. At this Meeting were the King, the Legat, the Arch-Bishop, Bishops, cum Magnatibus ac omnibus viris Religiosis, ad Interdicti negotium contingentibus; The Barons or Great Men and all the Religious who were any ways concerned in the business of the Interdict; and every one brought in Writing a Catalogue of their Ablata or Damages; but by the Legats favour to the King, they were put off, and received no Money except the Bishops afore said.

Notwithstanding this submission of the King and his giving away his Crown to the Pope, the Interdict still remained. So that the next year the King renewing his former design against the King of France, in the Feast of the Purification of the Blessed Virgin, sent Messengers to Rome for the Relaxation of the Interdict; and at the same time he, and his Queen, took Ship at Portsmouth with a great Army, and in a few days arrived at Rochel. Upon the 6th and 8th of March following these Letters to the Barons, &c. and to the Cities and Burroughs beforementioned were sent to them, to give them notice of his Success, and let them know the Pope had consented to the Release of the Interdict.

That to the Cities and Burroughs was to borrow Money towards the Charge of this Affair; and that to the Barons, &c. to ask their advice and aid in the effecting of it. In the mean time the Pope having heard both Parties, by their Commissioners or Protectors in Rome, and being satisfied it was much to the advantage of the Nation and good of Souls, he wrote to the Bishop of Cusculum his Legat, to take off the Interdict, upon condition the King should pay to the proscribed Bishops 40000 Marks, discounting what he had paid to them before. When the Legat had received his

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his Authority to release the Interdict the King was beyond Sea, and made the Legat and William Marshall his Commissioners to act for him. Idem Legatus in urbe Londinensi apud Sanctum Paulum grande congregavit Concilium, ubi congregatis Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis ad hoc negotium Interdicti Specantibus proposuit, &c. That is, the same Legat convened a great Council at London in St. Pauls, where were the Arch-Bishops, Bishops, Abbats, Priors, Earls, Barons, and others concerned in the Business of the Interdict, and propounded the form of Restitution the Pope had drawn up at Rome, and it being proved the proscribed Bishops had Received 27000 Marks, there rested only 13000 more to be paid to them; for which the Bishop of Winchester, and Norwich undertook to pay, and then the Legat on St. Peters day the 29 of June released the Sentence of the Interdict after it had continued Six years, three months, and fourteen days.

The Interdict thus released, there came to the Legat an innumerable multitude of Abbats, Priors, Templars, Hospitalers, Abbesses, Nuns, Clerks, and Laics, requiring restitution for the Damages and Injuries they had received in the time of the Interdict; but the Legat answered them all alike, that there was no mention of their Damages, and Injuries in the Popes Letters, and that he neither ought, or could, transgress the Bounds of his Authority: and indeed most of these, the Religious especially, could require nothing, for the King had procured from most Religious Houses, Testimonials, that what he had from them, was freely given him. But when by the Authority of the Pope they thought they might have a compensation for them, then they called those things which they had given to the King Ablata, things taken from them; for at this time the Pope had by Mandate ordered Commissioners from him to Tax a Sum upon the King to be paid by 12000 Marks a year in recompence of the Ablata or Goods taken from the Clergy, &c. And the King bound himself by Oath, and had also six Undertakers with him, W. E. Ferrers, the Earls of Chester, Winchester, and Arundel, William Bruer, and William Marshal, for the performance of it.

This being the History of the Interdict by Reason whereof the King and Kingdom were reduced to great streights, the intention of calling this Council was for the raising of Money to satisfy the Bishops and Clergy for their pretended Damages, and likewise for a gratuity to the Pope (of whom Mat. Paris says, he was ambitious above all Men, proud, and insatiably thirsty after Money, and prone to all wickedness, for Rewards either given or promised) and Pandulph his Legat, that the Interdict might be taken off; which in those days were not small Sums, as may be concluded by 40000 Marks given to five Bishops only.

And it shall be granted that the first Record, by which King John required Advice and Aid of the Barons, Knights, and all the Feudatories of all England towards the releasing of it, was a Summons to a great Council, yet it will not by this Record be made out, that the Commons were Represented in it, or made an essential part of it. For the Milites & omnes fideles totius Anglie, to whom this Writ was directed, next after the Barons, were only the Tenants in Capite,

The Popes Legat by the Kings Authority calls a great Council.

Ibid. n. 30. 40.

The Constituent parts of that great Council.

The Interdict released.

A. D. 1215. 16 John.

Ibid. n. 50.

Ibid. fol. 233. n. 30.

Rex requirit Regis ejus ut confirmet que ei delevit.

Tempore interdicti que nec ablata vocantur. Pat. 16.

Feb. par. 1. m. 10. Dors. and the acquittance for them is upon Record.

Ibid. m. 8. Dors. n. 1.

Ibid. m. 17. Dors. n. 1.

17 Junii Chart. 16 Feb. m. 9. n. 67. in Andev. gia.

A Council called for Raising Money to clear the Interdict.

Fol. 245. n. 10.

Barons Peers.

Milites & Fideles were Tenants in Capite in this Record.

It was the ancient Custom, for our Kings to send Letters to all Tenants in Capite, to Summon them to Parliament.

Pars fol. 257. n. 20, 3.

The Law of Summons to great Councils or Parliaments.

Barones Capitales minores, sunt qui a Rege Tenent in Capite. Spel. Glossar. fol. 69. col. 2.

which were no real *Barons*, yet were often called to *Great Councils*, as *Barons Peers*. And such that were not actually *Barons*, there are many *Instances*, of their being called to sit amongst the *Lords* sometimes; and sometimes again omitted in several *Kings* Reigns after the *Commons* were a *third Estate*, and *Represented* as at this day. And that the *Milites & Fideles* mentioned in this *Writ* were only *Tenants in Capite*, 'tis very clear from the close of the *Writ* it self, where 'tis said, *Unicuique vestrum si fieri potest Literas nostras transmissimus, sed ut negotium expediretur majore festinatione, &c.* We had sent our *Letters* to every one of you, if it might have been done, for the *Business* it self, which requires a quick dispatch, &c.

It cannot be thought that the *King* ever wrote to all the *Knights* and *Feudatories* of *England* to meet in a *Great Council*, or if *Fideles* be taken in the largest and the most comprehensive sense that may be, for *Subjects in General*, no man can believe that ever any *King* did write particular *Letters* to every individual *Subject*, or *Freeholder* to come to, and send their *Representatives* to *Great Councils*. And therefore whatsoever the words of the *Writ* are, the design of it was to *convene*, such only as had usually in those times been called to *Great Councils*, which were the *Tenants in Capite* though no *Barons*, who only *Represented* themselves, and not the *Commons*, and were all summoned by particular *Writs*, and not sent or chosen by the *People*, and this *Appears* to be so by the irrefragable authority of *King John's Magna Charta*, confirmed at *Runnemede* not full two years after, which was to be a *Law* for the *summoning* of *Great Councils*, or if our *Author* please, *Parliaments* in the subsequent times. The words are *Submoneri faciemus Archiepiscopos, Episcopos, Abbates, Comites, & Majores Barones Regni singillatim per Literas nostras, & preterea faciemus submoneri in generali per Vicecomites & Balibos nostros, omnes alios qui de nobis tenent in Capite ad certum diem, scilicet ad terminum quadraginta dierum ad minus & ad certum locum in omnibus literis submonitionis istius, causam submonitionis istius exponemus; & sic facta submonitione negotium procedat ad diem assignatum, secundum concilium eorum qui presentes fuerint, quambis non omnes submoniti venerint.* We will cause to be summoned, the *Arch-Bishops*, *Bishops*, *Abbats*, *Earls*, and the great *Barons* of the *Kingdom* severally by our *Letters*, and moreover we will cause to be summoned in general, by our *Sheriffs* and *Bayliffs*, all others which hold of us in *Capite* at a certain day, to wit, at the term of 40 days at least, and at a certain place. In all our *Letters* of *Summons* we shall declare the cause of the *Summons*, and so they being summoned, the *Business* shall proceed at the day assigned, according to the advice of such as are present, although all that were summoned shall not come.

By this *Law* the way and manner of *Summons* to great *Councils* was settled, and made more easie than it was formerly; for by the former *Writ* the 15th *Johannis*, it appears to have been the custom for the *King* to write to every one of the *Milites & Fideles*, or *Tenants in Capite*, which were no formal *Barons*, particularly as he did to the *Barons*, and that the *Custom* was so, 'tis likewise implied in this establishment of *Summons* for the future, that it should be

A be by particular *Writs* to every great *Baron*; and in General to all *Tenents in Capite*, by *Writs* directed to the *Kings Sheriffs* and *Bayliffs*. Hence 'tis evident, that only the *Arch-Bishops, Bishops, Earls, Barons, and Tenents in Capite*, were usually summoned to *Great Councils*. For if there had been any others to have been summoned, the like care would have been taken to settle the way of *Summons* to them as there was of these. And it is as evident from hence who were *consequent parts* of *Great Councils* and *Parliaments* in these and the following times until the 49th of *Henry the Third*, or 18th of *Ed. 1*.

The constituent parts of great Councils.

B And we have the *practice* and *use* of this *Law* confirmed by a very clear *Record*, twenty years after, in the Reign of *Henry the Third*. *Rex Vicecom' Suffex Salutem. Scias quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & omnes alii, de regno nostro Anglie qui de nobis tenent in capite, spontanea voluntate sua, & sine consuetudine, concesserunt nobis efficax auxilium, ad magna negotia nostra expedienda. Unde provisum est de consilio eorum quod habeant de singulis feodis Militum & Ward. qui de nobis tenent in capite, duas Marcas ad predictum auxilium, nobis faciendum, & unde providerint, reddere nobis unam medietatem ad festum Sancti Michaelis Anno Regni nostri 19. & aliam medietatem ad Pascha Anno Regni nostri 20. Id eo tibi precipimus, quod ad Mandatum venerabilis Patris R. Cicestriensis Episcopi Cancellarii nostri, sine dilatactione distringas omnes Milites & Libere Tenentes qui de eo tenent, per Servitium militare, in Balivâ tuâ ad reddendum ei de singulis feodis & Wardis duas Marcas ad predictum auxilium nobis per manum suam reddendum in terminis predictis.*

Cl. 19 Hen. 3. m. 8. Dors. The Ancient Members of Parliament.

An Aid given.

Two Marks of every Knights Fee.

C *Sic Scribitur pro aliis Episcopis, Abbatibus, Prioribus, & Magnatibus.*

D The King to the Sheriff of *Suffex*, Greeting; Know ye that the *Arch-Bishops, Bishops, Abbats, Priors, Earls, Barons, and all others of our Kingdom which hold of us in capite*, have granted us an effectual Aid on their meer good Will, and without Custom, of every *Knights Fee two Marks, &c.* Therefore We Command thee that according to the Command of *R. Bishop of Chichester*, our Chancellor, you distrain all Knights and Free-Tenents which do hold of him by Military Service in thy County or Bayliwick to pay him for every Knights Fee, &c. two Marks to be paid by him to us.

E After the same manner it was written for other *Bishops, Abbats, Priors, and Great Men.*

To quicken their Tenents.

F

His

His Third Argument Considered.

Parliament
Roll.
The Pope de-
mands Ho-
mage of King
John.
Rot. Parl. 40
Ed. 3. n. 7.
And 1000
Marks per an.

IT is drawn from 40 *Ed. 3. n. 7. 8. King John* in the 14th of his Reign, had made himself and Crown tributary to the **Pope**, by *Homage* and the Payment of 1000 Marks by the year. The **Pope** in the 40th of *Edward III.* demands *Homage* of him, and a 1000 Marks *per Annum* for the *Kingdoms* of *England* and *Ireland*, and in case of non-performance, he threatens to make out *Process* against the *King* and *Kingdom*; whereupon the *King* asks advice of his *Parliament*, and the *Bishops* by themselves, and the *Dukes*, *Earls*, *Barons*, and *Great Men* by themselves answered, and said, that the said *King John*, nor no other could put himself, nor his *Realm*, nor his *People* in such subjection, *without the assent and accord* of them.

Ibid. n. 8.

And the *Commons* being demanded about the same thing, *Responderent en mesme la manere, answered in the same manner*; and in Number 8. *Les Prelates, Ducs, Countes, Barons, & Communs en sur ce plein deliberation Responderent & desoient D'une accord que le dit Roy Johan ne nul autre purra mettre luy ne son Roialm ne son people en tiel subjection saunz assent de eux.* The *Prelats*, *Dukes*, *Earls*, *Barons*, and *Commons* in full deliberation upon this matter, answered, and said, with one accord, that the said *King John*, nor no other, could put himself nor his *Realm*, nor his *People* in such subjection, without their *Assent*.

It was 153
years from
the 14th of
King John to
the 40th of
Edward III.
Ibid. n. 7.

All that the *Resolution* of this *Parliament* in this Case proves, is that *King John* could not subject Himself, his *Realm* or *People*, without their *Assent*, but proves not, who they were that in such Cases at that time gave or denied their *Assent*, or how they did it, or whether 153 years before this *Resolution*, the *Commons* were represented by *Knights*, *Citizens*, and *Burgesses*, as at this day:

The *Prelats* and *Barons* gave their answer first, that such a subjection could not be made without their *Assent*, and then the *Commons* were asked what their thoughts were, and they answered in the same manner, and in the same words the *Barons* had done. And when they answer all together, they do it in the same form of speech conceived first by the *Barons* without any consideration, whether the *Commons* were the same Body of Men, at the time of executing the *Chart* of *King Johns* subjection, &c. as at that present.

The

The Fourth Argument Consider'd.

From several Records, viz. 28. 32. 37. 42 and 48 Hen. 3. where-
in the word **Parliament** is to be found, as likewise the words
A **Communitas populi**, and **Communitas Regni** are mentioned. As to
the word **Parliament** I answer, as before, that it came in use here
instead of **Magnum Concilium**, or **Commune Concilium & Col-**
loquium, about the middle of the Reign of Henry III. and in time
became of more frequent use than those words, and signifies no
more than **Colloquium**, a Conference; and doth no more point out
the constituent Members of it, than that word did; And so the
meaning of the **Parliamentum** is to be taken in the first Record,
B which is a **Writ** to the Sheriff of Northampton-Shire, that he should
not permit any one in his **Bailiwicke**, to use any **Liberties** belong-
ing to the **Crown**, unless they had first been used unto the time of the
Parliament of **Runnemede**, *quod fuit inter Dominum Johannem Re-*
gem, Patrem nostrum & Barones suos Anglie, which was between the
Lord King John and his Barons of England. What doth **Parlia-**
ment signifie here, but **Colloquium**? a Conference between the
King, and his Barons, not a word of the **Commons** in the Record,
C nor can the word **Parliament** imply them, and a short touch upon
the History of this Meeting, or Conference at **Runnemede**, puts it
out of Question, that the **Commons** were not there represented as
at this day, in our **Parliaments**.

The Barons having on the 24th of May, by the invitation and
contrivance of the rich **Citizens**, possessed themselves of **London**,
after they had placed their own Guards upon every Gate, and taken
D security of the **Citizens**, disposed of all things in the City as they
pleased, they sent their Letters to the Earls, Barons, and Knights
that really or seemingly adhered to the King, exhorting them with
threats that if they would not desert the Perjured King (as they cal-
led him) and faithfully close with them, in asserting their Liberties,
they would proceed against them as publick Enemies, beat down their
Castles, burn their Houses, and destroy their Warrens, Parks, and
Hot-yards. Upon this Command of the Barons, the greatest part
E of the Noblemen, and such as were with the King, left him, and
went to London, and confederated with the Barons.

The King seeing himself deserted, and fearing they would seize
his Castles, sent William Earl of Pembroke, and other faithful Mes-
sengers to them, to let them know he would grant them the Laws,
and Liberties they desired; and commanded them to appoint a day
and place for a meeting to prosecute this Affair. The Barons (*im-*
F *menso gaudio recreati statuerunt Regi diem ut venirent contra eos ad*
Colloquium in pratum inter Stanes & Windleshozes situm 15 die
Junii) being transported with great Joy appointed the King a day
to meet them at a Conference in a Meadow between Stanes and
Windsor, upon the 15th of June, and accordingly they met at the
day and place prefixt.

P. 33.

Cl. 28 Hen 3.
m. 12. Doml.

*Angli autem
dum Parli-
mentum paci-
ficum habuif-
sent cum Wal-
lensibus, &c.*
Par. fol. 978.
n. 10.
A short Nar-
rative of the
Meeting at
Runnemed

Par. fol. 254.
n. 40, 50.
The Barons
i vited by the
Londoners to
take possession
of the City.
Ibid. fol. 225.
n. 10. 20.
They Com-
mand all the
Barons of
England to
come in to
them.
Sup. hoc Baro-
num Manda-
t m.

Ibid.
Most of them
leave the
King.

Ibid. n. 3c.

P. 33.
Ibid. n. 50.

This

This was the **Parliament** at **Runnemeade** whither the **Barons** marched with their Army, and the **King** perceiving his Forces to be inferior to the Forces of the **Barons**, granted the **Laws** and **Liberties** as they there follow in **King John's Magna Charta**. I think no body will say, that the **Commons** were represented in this Meeting, as at this day in **Parliament**: Nor indeed was it possible for any **Representatives** of the **Commons** to be there, for there was but One and Twenty days, between the 24th of **May**, when the **Barons** possessed themselves of the City of **London**, and the time of this Conference; In which One and Twenty days the **Barons** first secured the City, then sent their **Commands** to other **Barons** through **England** to come in, &c. who, after they received them, repaired to them at **London**, and then, when the **King** see himself deserted, he sent **Messengers** to them, and they appointed the 15th of **June** for the day of Meeting, all these **Translations** passed one after another in this short space of time, so that it could no ways be, that **Writts** should issue, and the People **Elec**t their **Representatives**, in so small time, as must needs **interbene**, the **Kings** Message to them, to appoint a time and Place, and the time appointed.

A

B

Cl. 32 Hen. 3.
m. 13. Dors.

The Test of
this Writ is
16 Feb. apud
Westm. p. 34.

The Barons
the whole
Parliament.

Next he tells us of the **Outlawry** against **William de Hastings**, which was reversed, because it was not done according to the **Law** and **Custom** of the **Kingdom** (these words he hath left out) **coram Rege & toto Parlamento**, before the **King** and the whole **Parliament**. I believe he had better have let alone, harping upon the word **Parliament** in this **Record**, for 'tis a clear and unanswerable Argument against him, that the **Barons** in this Meeting were the whole **Parliament**: for he can never prove the **Commons** medled in such **Judgments**, or **Watters** of **Law**, or that it did belong to them, or ever pretended to it, in our **Ancient Parliaments**.

C

Ibid. m. 12.
Dors.

Not a word
of the Com-
mons.

And that the **Barons** were then the **Parliament**, there is another **Record** in the same year, of which this Gentleman hath given a scrap in his Margin, where the word **Parliament** is mentioned, and the Persons whereof it consisted, who were **Barons** only. The **Pope** had granted a large **Boon** to the **Church** of **Canterbury**, of one years profit of all the **Living**s in the **Patronage** of **Lay-men** when they should become void; The **King** writes to the **Bishop** of **Norwich**, that he should not permit them to be levied, or force the **Incumbents** to pay them, in this form. *Rex. W. Norwicens. Episcopo salutem, quia Magnates Terræ Nostræ noluerint in ultimo Parlamento nostro quod fuit apud London, &c. vobis mandamus prohibentes districtè ne fructus exigatis prædictas, vel Ecclesiarum Rectores, ad conferendum dictum subsidium compelletis, donec cum prædictis magnatibus, sine quibus, super hoc nihil volumus attemptare, Colloquium habuerimus teratum. Teste Rege apud Sanctum Edmundum, 9 Mart.* The **King** to **William Bishop** of **Norwich** Greeting; Because the **Great Men** of our Land would not in our last **Parliament** at **London**, &c. Therefore We **Command**, and streightly forbid, that you do not exact the said **Profits**, nor compel the **Rectors** of **Churches** to pay them, until We have had another **Conference** or **Parliament** with the **Great Men** afore said, without whom we will attempt nothing in this matter.

D

E

F

In

A In this Record we find the old word **Colloquium**, and the new word **Parliamentum**, expressive of one another, and of the same thing, and that the word **Parliament** did no more imply the **Commons** to be a constituent part of it, than **Colloquium** did. It is further to be noted concerning this Writ to the Bishop of *Norwich*, that the Test of it is but two and twenty days after the other, to the Sheriff of *Northamptonshire*, about *Hastings* Outlawry, from whence 'tis evident, 'twas the same **Parliament**, or **Colloquium** mentioned in both.

Colloquium & Parliamentum the same.

B The next Record he useth to inforce this Argument is *Pat. 37 Hen. 3. m. 13.* which may be called an *Exemplification, Promulgation, or Declaration* of the *Excommunication, or Sentence* pronounced against the infringers of **Magna Charta**, on the third of *May* in *Westminster-Hall*, 37 *Hen. 3.* 1253. under the *Seals* of the *King* and other *Great Men*. All our Author cites in this Argument, is part of the latter end, and that in two small parcels, *Rex Magnates & Communitas Populi protestantur Publicè* (against infringers of *Magna Charta*) *Contra consuetudines Regni antiquas & usitatas; in cuius rei testimonium*, and then tells who set their *Seals* to it.

Pat. 37 Hen. 3. m. 13. The Date of this Record is the 13 May, 37 Hen. 3. apud Westm. The whole Record is printed in his Appendix, p. 164.

C The whole latter part of it, which he hath mangled and divided, runs thus, *Dominus Rex & predicti Magnates omnes & Communitas Populi protestantur publicè in presentia venerabilium Patrum B. Dei Gratia Cant. Archiepiscopi totius Angliæ Primat. nec non & Episcoporum omnium in eodem Colloquio existentium*, concerning any thing to be added or altered in **Magna Charta**, *quod in eâ nunquam consenserunt nec consentiunt sed de plano eis contradicunt. Præterea præfatus Dominus Rex in prolatione præfate sententiæ omnes Libertates & consuetudines regni sui antiquas & usitatas & dignitates & jura corone sue ore proprio specialiter sibi & Regno suo salvavit & excepit. In cuius rei memoriam, &c.*

Colloquium for Parliamentum.

King Henry in the Confirmation of Magna Charta, specially saveth and excepteth the Rights of the Crown. Communitas Populi, 37 H. 3. Who? Fol. 865. n. 40.

E To understand who were the **Community** of the People meant in this Record, we must have recourse again to *Mat. Paris*, who in this very year writes, that *In Quindenâ Paschæ Mense Aprili, tota editâ Regio convocata Angliæ Nobilitas Convenit Londini de arduis Regni negotiis simul cum Rege tractatura*, extiterunt igitur ibidem cum *Comitibus & Baronibus Quamplurimis, Archiepiscopus Cantuariensis Bonifacius, Episcopi Angliæ fere omnes* (only the Arch-Bishop of *Tork*, and the Bishop of *Chester* were absent by reason of sickness.) The *King* acquaints them with his purpose to go and assist the *Christians* in the *Holy Land*, and requires a great Sum of Money, they fall into *Contentis* about granting it, and the *Bishops* told the *King*, the *Liberties* of the Church were *violated*, and if he would reform those *Errors*, according to the *Tenor* of the **Great Charter** of *Liberties*, they would strain hard to serve him, which he promised them to do. Then after may *Disputes* in *Fifteen days* time, *Concessa est Regi decima pars proventuum ab Ecclesiâ per triennium, & à Militibus Scutagium illo anno, scilicet ad scutum tres Marce.*

Ibidem, n. 50.

Ibidem, fol. 866. lin. 1.

Ibidem, n. 20.

Notwithstanding this he summoned, *Milites sibi servitium Militare debentes*, that they should be ready with Horse and Arms at Portsmouth, eight days after Trinity, to pass beyond Sea. *Paris. fol. 868. n. 10.* Ibidem, n. 30. 40, 50. No Commons. See the Form of Excommunication. *op. n. 40, 50.* The Constituent parts of the *Colloquium*, 37 H. 3. when *Magna Charta* was Confirmed.

Observations from the preceding Record.

The Great Barons sometimes have been Summoned to Parliament, with the Addition of Chivalier.

Milites & Chivaliers proper and usual for Barons. *Seld. Tit. hon. fol. 574, 575.*

The Church granted the Tenth of their Revenue for three years, and the *Knights* or *Nobility* granted for that year *Scutage*, to wit three Marks of every *Scutum*, or *Knights Fee*. And then the *Arch-Bishop* and *Bishops*, in their *Pontificalibus*, and *Light Candles* in their hands, in the presence, and with the *Assent* of the *King*, *Richard Earl of Cornwall* his Brother, and several Earls there named, & *aliorum Oprimatum Regni Angliae*, and other *Chief Men* of the *Kingdom* of *England*, on the third of *May*, Excommunicated and Cursed, all those that from thenceforward should deprive the *Church* of her *Right*, and all those that should *change*, *alter*, or *diminish* the *Liberties* of the *Church*, and ancient *Customs* of the *Kingdom*, especially those granted in the *Charter* of the *Common Liberties* of *England*, and *Charter* of the *Forest* by the *King* of *England*. *Archiepiscopis, Episcopis, & ceteris Anglie Prelatis, Comitibus Baronibus, Militibus & Libere Tenentibus, &c.* To the *Arch-Bishops*, *Bishops*, and other *Prelats* of *England*, to the *Earls*, *Barons*, *Knights*, and *Free Tenants*, or *Tenants* in *Military*, or *Knights Service*, for they only were such as paid *Scutage*, which was at this time a kind of *Composition* with the *King*, for the confirming *Magna Charta*, and was never charged but upon *Knights Fees*, and these were such as held perhaps one narrow or scant *Knights Fee* only, or some part of a *Knights Fee*, as an half, 3d, 4th, 6th, 8th part, &c. who all paid a *proportionable* share of *Scutage* to the *Great Lords*, or *Tenants* in *Capite*, for the Lands they held of them in *Military Service*, which was paid first to the *Great Lords*, and by them paid to the *King*.

I shall observe from this Relation given by *Mat. Paris* of the *Colloquium*, or *Conference* mentioned in this *Record*, that it was all the *Nobility* of *England* met at *London*, to Treat with the *King*, and were summoned by his *Edict* or *Writ*; that particularly there were all the *Bishops* of *England*, with very many *Earls* and *Barons* at this Meeting; and lastly, that all the *Temporal Nobility*, or the *tota Anglie Nobilitas* in the *Grant* of *Scutage* are called, *Milites, Knights, Military Knights*.

And from thence I collect, that besides the *Barones Majores*, that came to this *Great Council*, or *Parliament*, there were also the *Tenants* in *Capite*, according to the *direction* and *Law* for *Summonings* in *King Johns Charter*, who were comprehended in the words, *tota Nobilitas, & Milites*; And that other *Tenants* that held of the *Tenants* in *Capite* by *Knights Service*, were bound by their *Acts*. For they all knew how many *Knights Fees* they held of the *King* in *Capite*, and if they had given away any to others, they held of them, as they did of the *Crown*, and answered a *proportionable* Rate toward this *Tax*, for the *Fees*, quantities, or parts of *Fees*, they held of them, about which there could be no mistake, after the *Scutage* was ascertain'd.

In so great an *Assembly* where all the *Nobility* of *England* were called together by the *Kings Writ*, and upon so great an *Occasion* and *Solemnity*, as confirming the *Great Charter* of *Liberties*, after such an extraordinary manner, it cannot be doubted, but besides the *Barons*, all the *Tenants* in *Capite*, both great and small, which were then

then very *Numerous*, were present ; or at least most of them, from whence it is not difficult to tell our Author, who the *Communitas* were, after the *Bishops*, *Barons*, and *Magnates* ; they were no other then the *Small Tenants in Capite*, who were all summoned by one General Writ, not chosen, and sent by the *People*, but summoned as the *great Barons*, though in general, as hath been before shewn, from King *Johns Magna Charta*. Again, *Dominus Rex & prædicti Magnates omnes, & Communitas Populi*, &c. that is the Lord the King, and all the foresaid *Great Men*, and *Community* of the *People* (to wit) the *Community* of the *Laity*, or the *Laity* in general, do protest publickly in the presence of the *venerable Fathers*, *B. Arch-Bishop* of *Canterbury*, and all the *Bishops* there present, &c. For here the *King*, *Great Men*, and *Community* of the *People*, or *Laity*, made their Protestation before the *Bishops*, and *Clergy*, and as I have proved before, the *Clergy* and *Laity* are often expressed, and distinguished, by *Clerus* and *Populus*. So that *Communitas populi* doth not here signifie, the *Community* of the *Commons*, but the *Community* or *body* of *Laic's* there present.

And in this sense *Clerus* and *Populus* are used in the 8th of this King, *Anno Dom. 1224. Convenerunt ad Colloquium in Octavis Sanctæ Trinitatis apud Northampton, Rex cum Archiepiscopis, Episcopis, Comitibus, Baronibus, & aliis multis, de Regni negotiis tractaturi* ; Sitting this *Parliament*, a Complaint was made to the King, that one of his *Justices* in the *Circuit* was carried Prisoner to *Bedford-Castle* ; At which the *King* being very angry, *Quæsit Concilium à Clero simul & Populo* : So in the *Chronicle of Gervase of Canterbury*, *Dux Henricus, una cum Rege Stephano, & quibusdam optimatibus Angliæ, venit Cantuariam, ubi à Conventu Christi, solemniprocessionem, cum innumera Cleri & Populi multitudine susceptus est*. Duke *Henry*, (afterwards *King Henry II.*) with *King Stephen*, and certain *Great Men* of *England* came to *Canterbury*, where they were received by the *Monks*, or *Convent* of *Christ* in *Procession*, and an innumerable multitude of the *Clergy* and *People* ; And in another place in *Mat. Paris*, upon occasion of the *Popes* writing to *King Henry II.* for *Relief* of the *Holy Land*, 'tis said, *Convocato Clero Regni, ac populo, Convenerunt Londoniis apud Fontem Clericorum decimo Kalendaris Aprilis, Rex cum universa Nobilitate Regni. Ubi dictus Rex, &c.* The *Clergy* and *People*, being called together or summoned, they met on the *Twenty third* of *March* at *London*, in the * *Monastery* at *Clerken-Well*, the *King* with the whole *Nobility* of the *Kingdom*. In the *Relation* of the *Coronation* of *King Edward II.* we meet with these passages.

Sire voulez vous Graunter & Garder, & per vostre serment Confermer au peuple de Angleterre, les leys & les Custumes à Eux grantees par le auciens Roys Dengleterre vous predecessors Droiturs & Devotz à Dieu, & nomement les loys, les Custumes, & les Franchisees graunte au Clergie, & au peuple, par le gloriens Roi Edward vostre predecessor. Responf. Jeo les Grant & Promette. Sire Garderez vous à Dieu & St. Eglise, & au Clergie & au peuple, pacs & accord en Dieu intirement solonc vostre poer. Responf. Jeo le Garderai. Sir, Will you grant, keep, and by your *Oath* confirm to the *People* of *England*, the *Laws* and the

The *Communitas populi* were Tenants in Capite, both great and small. Or the *Community* of the *Laity*.

In that Book which is called the *Ancient Modus Tenendi Parl.* the Title of the third Chapter, which is concerning *Summons*, is *de Clero, or Clericis* ; and the Title of the Fourth Chapter, concerning the same matter, is *de Laicis*, which treats of the *Barons Summons*. *Communitas Populi*, What. *Paris*, Fol.

Col. 137^c. l. 3. A. D. 1153.

Clerus & Populus, *Clergy* and *Laity* in general.

F. 143 lin. 5. A. D. 1185.

Populus, the *Laity*, or *Lay Nobility* only.

* Eitheir in the *Monastery* of *St. John's* of *Jerusalem*, (now called corruptly *St. Jones's*) or the other *Monastery* there on the *North-West* side of the *Sometime Green*.

Roi. Claus. 1. Ed. 2. m. 10. Derf.

See more of
the words
Clerus and
Populus in the
Gloss.

The greatest
part of the
Liberties
claimed in
Magna Charta,
concerned Mi-
litary Men.
Or the
Church.

See Glossar.
for *Magnates*.

See concern-
ing the Crea-
tions of Earls,
Barons, con-
cerning Mag-
nates. Banne-
rets, Knights,
Peers, &c.
Elfyngs modus
tenendi Parlia-
mentum, from
p. 27. to 46.
Autres Grands
Barons, Peers.

A Form of
Peace be-
tween the
King and Ba-
rons, after
the Battle of
Lewes.

Customs to them granted by the ancient Kings of England your Predecessors just and devout towards God, and namely the *Laws*, the *Customs*, and the *Franchises* granted to the *Clergy* and *People*, by the glorious King Edward your Predecessor; His answer was, I grant and promise, or confirm. Sir, Will you keep or preserve to God, and Holy Church, and to the *Clergy* and *People* peace and accord in God intirely according to your power; His answer was, I will keep and preserve them. What can here be meant by *Clerus* and *Populus*, but the *Clergy* and *Laity*? And therefore it is said in the Close of this Record, That in *veritatis Testimonium, tam Dominus Rex, quam predicti Comites, ad instantiam aliorum Magnatum, & populi, presenti scripto sigilla sua apposuerunt*; For the Testimony of the Truth of this Transaction, as well the Lord the King, as the aforesaid Earls, at the Instance and Request of other great Men, and the *Laity*, or Community of the *Laity*, put their Seals to the present Writing.

There are only the words *Comites* and *Magnates* used in this Record, and why *Magnates* should be so comprehensive as 'tis there used, to include all Earls, Barons, and great Tenents in Capite in this very Colloquium, I see no great reason for it, but do think, without straining of the words, or putting a harsh sense upon them, the *Communitas populi* may be here understood of the body of the Tenents in Capite, that were no Barons, as contra-distinguished to the Earls and great Men of the highest Order; and besides that, they were all called by one General, and Common Writ. These words were used to denote the great appearance of them which were the inferior sort of the *Laity*, at this great Solemnity for asserting the Common Liberties, which they claimed; for the far greatest part of *Magna Charta*, concerned Tenents in Military Service only, and the Liberties, which our Ancient Historians tell were so mightily contended for, if seriously considered, were mainly the Liberties of Holy Church, by which, in most things, she pretended to be free from Subjection to a Temporal Prince; and the relaxation of the Original Rigor upon which Knights, or Military Fees were first given by the Lords, and accepted by the Tenents.

I know that *Magnates* very often imports, and is used for the great Tenents in Capite; that were no Barons, and perhaps the least Tenents in Capite; likewise for Knights also, and Bannerets, which though distinguished from the great Barons (who were ever created by some Ceremony or other, as all Orders of Nobility have been) yet had great Estates, and were possessed of, and held many Knights Fees in Capite, or were Feudal Officers, and therefore were summoned, as Peers, to the great Barons: And these, after the Commons were represented as at this day, in the times of Edw. 3. and Rich. 2. are in Parliament Rolls called *Autres Grantz*, or *Grandes, Autres Nobles*; which were Barons-Peers, called by the Kings Writ into the Lords House at pleasure, and omitted at pleasure.

The next Record he produceth is stiled, a Form of Peace between the King and Barons, which was drawn up by Simon Montfort, Earl of Leicester, General of the Army of the Barons, and his Complices, when Henry the Third was their Prisoner, and Edward the First his Son, then Prince, was a Hostage, and Prisoner likewise,

- likewise, on behalf of his Father, in order to an Agreement and Peace to be made between his Father and Barons. The Battle of **Lewes**, where King Henry was taken Prisoner, was Fought, May 19th. this year 1264. And this Record is dated at London, in June following after Midsummer-day, and the sum of it is, That **Montfort** and his Faction should name three Men, who should have Authority and power from the King to choose and name **Nine Counsellors**, of which, three should always be with the King; and he, by their Advice, should Order and dispose of the Government of his Castles and Forts, and all other business of the Kingdom, and also by their Advice should choose his Judges, Chancellors, Treasurer, and other Officers, great and small, either of the Court, or Kingdom; and when any of these were to be removed, or others chosen, it was to be done by the Advice of the first three Electors. And these three were always to be supplied by the Barons during King Henry's Reign, and such time of his Son **Edward's** Reign, when he should come to be King, as was then to be agreed on. And this Agreement or Form of Peace (as they called their own Impositions upon King Henry:) was to remain good, until certain short Articles made at **Lewes** were drawn up into Form, and Ratified. A Brief Narrative of some Accidents before, in, and after that Battle, will make this Record be better understood.
- C** The year before the differences between the King and Barons about the Provisions made at Oxford, were by mutual consent, referred to the King of France, who gave Sentence for the King against the Barons, to which **Simon Montfort** and others would not submit; Whereupon many of the Great Men left Montfort; who was in those days a Godly Man, a mighty seeming Saint, and wonderful Favourite of the Clergy and Religious: from this time, until after the Battle of **Lewes**, his strength rather decreased than increased: **Prince Edward** in this Battle ingaged the Londoners, and beating them, made too great a pursuit, so that before his return, the other part of the Kings Army was routed, and his Father taken Prisoner, and put into the Priory of **Lewes**; the Castle making a stout defence against the Barons, at which the Prince took courage, rallied his Forces, and designed to try the fortune of another Battle, which Montfort and his Confederates perceiving, they sent Mediators for Peace, promising, that on the next day they would effectually Treat of Peace, which was done, by the Mediation and Intercourse of the Friars-Preachers, and Minors, between both Parties, and things came to this issue; that on the morrow **Prince Edward**, and his Cousin **Henry** yielded themselves to **Simon Montfort**, and became Hostages for their Fathers, Kings of England, and Almain, upon hopes of Peace, and a deliberate Treaty about such things as might be found expedient for the quiet and safety of the Nation.
- E**
- F** But when Montfort had King Henry, his Brother Richard King of the Romans, their Sons, Edward and Henry, and many others of the Nobility Prisoners, and carrying the King and Prince about with him, until he had taken in all the strong Castles and Forts of the Land, he grew more averse, and difficult to treat of the Form of Peace as it had been agreed at **Lewes**, making King Richard Prisoner in the Tower, and sending Prince Edward and his

The Battle of Lewes, May 19. 1264. 48 of Hen 3. Knighton col. 2450. n. 60. The unreasonable Impositions of Montfort and his Faction upon the King.

Mat. Paris, fol. 993. n. 10.

Ibidem, n. 20. Ibidem, 995. n. 10. fol. 998. n. 30. Fol. 994. n. 10. Prince Edward lost the Battle of Lewes by pursuing the Londoners too far. Ib. fol. 996. n. 10.

Ibid. This is the Mile, or short form of Peace mentioned in the Preamble of this Record. Ibid. n. 40.

Montfort, when he had the King and Prince Prisoners, grew insolent.

his Cousin Henry to Dover Castle, keeping Henry with him where-ever he went.

In this condition was the King when Montfort and his Confederates, imposed upon him these unreasonable terms, calling them a *Form of Peace*, which was made, as 'tis there said, *de consensu, voluntate, & precepto Domini Regis, nec non Prælatorum Baronum, ac etiam Communitatis tunc ibidem presentium*. The *Bishops* and *Barons* were such as sided with Montfort, and the *Community*, was the *Body* of the *Tenants in Capite* of the Faction there present; and without doubt others not of the Faction, who through fear came in, and complied, when the Rebels had the King, and his Son in their power; and the Witnesses to this Form of Peace, *Richard Bishop of Lincoln, Hugh Bishop of Ely, Roger Earl of Norfolk, and Marshal of England, Robert de Aier Earl of Oxford, Humphry de Bohun, William de Montcheny,* and the *Mayor of London*, were all the Kings * great Enemies.

And whereas 'tis said these things were done in a Parliament at London, *Mense Junii An. Dom. 1264.* it could not be so, in our modern use, and understanding of the word; for as we have seen above, the King and Prince were both Prisoners, and his Brother *Richard Earl of Cornwall*, and King of *Almain*, and many others of the Nobility were Prisoners likewise. *Roger Mortimer* and several of the Nobility and great Men with him were in Arms against Montfort, and without doubt none of the Kings Party, or Friends were there, so that it must be a *Parliament* in the sense and general use of the word at that time. That is, a great Assembly, Convention, or Meeting of the Faction, and such as by threats and fear, were forced into a Compliance with them, and prudential moderate Men (as they call themselves) who stand still, while the Faction is uppermost, and then most commonly go along with them.

Such was that at Oxford when those deposing provisions were made (called *Provisiones Oxonienses*) in the 42 of this King Henry III. 1258. *Instante festo Sancti Barnabe Apostoli, Magnates & Nobiles Terra ad Parliamentum quod Oxonie tenendum fuit properabant, præceperuntque omnibus qui eisdem servitium militare debuerant, quatenus cum ipsis venirent parati veluti corpora sua contra Hostiles insultus defensuri, quod & fecerunt palliantes talem adventum, eo quod in Walliam contra hostes regis viderentur collatis viribus profecturi*. The Feast of St. Bartholomew being at hand, the Great Men and Nobles of the Land made haste to the Parliament then to be holden at Oxford, and they commanded all which held of them in Knights or Military Service to go so prepared with them; as they were to defend their Bodies against the Attempts of their Enemies; which they did, disguising or covering their coming in such a manner, for that they pretended, or would seem to march with their joint Forces into Wales, against the Kings Enemies.

And that this Record is agreeable to the History we have used, and the very same our Author hath cited, and that which is here laid open, will appear from the preamble and date of it.

Hæc

Towards the latter end of the same Record.

* For Bigod see Pat. 48 H. 3. m. 9. and for him, and Bohun. Mat. Par. fol. 969. lin. 29. and fol. 995. lin. 435. for Marchessey. For Robert de Ver. Knighton. col. 2449. lin. 35. for the two Bishops. Godw. de præsul. for the Mayor and Citizens of Lond. Paris fol. 999. l. 4. Pat. 48 Hen. 3. m. 6. Dorf. in fine. That Convention to Parliament. Paris fol. 996. n. 50. Paris fol. 970. n. 40. Ibid.

No such Commons or Freeholders as at this day.

It was Prorogued to Oxford from the Sunday after Ascension day unto Barnabas day, Paris fol. 968. lin. 8. lin. 27.

Hac est forma pacis, a Domino Rege & Domino Edwardo filio suo, Prælati & Proceribus omnibus cum Communitate totâ Regni Angliæ communiter & concorditer approbata. Videlicet quod quedam Ordinatio facta in Parlamento London habito circa festum Nativitatis Johannis Baptiste proximè præterit. pro pace Regni conservandâ; quousque pax inter dictum Dominum Regem & Barones apud Lewes per formam cuiusdem Misse prælocuta Completeretur, duratura omnibus diebus prædicti Domini Regis & etiam temporibus Domini Edwardi, postquam in Regem fuerit assumptus, usque ad terminum quem ex nunc duxerit Moderand. firma maneat, stabilis & inconcussa, Dicta autem Ordinatio tale est.

Pat. 48 Hen. 3.
m. 6. Dorf.
The Preamble
to the form of
Peace.

This is the Form of Peace generally and unanimously approved by the Lord the King, and the Lord Edward his Son, the Prelats and all the Noblemen, with the whole Community of the Kingdom of England; That is to say, that a certain Ordinance made in the Parliament held at London about the Feast of the Nativity of John Baptist last past, for conserving the Peace of the Kingdom, until a Peace between the said Lord the King and the Barons treated of at Lewes, according to the form of a Misse then made, should be compleated; to endure all the days of the aforesaid King, and also so long time of the Lord Edward, after he should be King, as should then be appointed. The said Ordinance is such or after this manner; of which there hath been an abstract given above. Actum in Parlamento London mense Junii An. Dom. 1264. done in the Parliament at London in the Month of June, in the year of our Lord, 1264. which must be at the latter end of June after Midsummer day.

The last Record he useth in this Argument is about the same Form of Peace mentioned in the former. The words he insists upon are these. *Cum super præteritis Guerrarum discriminibus in Regno Angliæ subortis, quedam Ordinatio seu forma pacis de nostro Prælatorum * Baronum & totius Communitatis Regni prædicti unanimi voluntate & assensu, &c.*

Pat. 48 Hen. 3.
m. 4. Dorf.
P. 37.

So much of this Record as relates to the present controversie, when fairly reported and compared with some passages in History not many years before (will in my judgment) sufficiently inform us what the Communitas was, and who were to be understood by it, in this, and the other Records.

* Here in this place he hath put in the word Baronum, to serve his purpose; 'tis not in the Record.

*Rex Angliæ S. de Monteforti Com. Leycestr' Gilbertus de Clare Com. Gloucest. & Hertford. Johannes fil. Johannis. Johannes de Burgo senior, Willielmus de Monte-caniso, Henr. de Hastings, Gilbertus de Gant & ceteri Barones & Magnates Angliæ; Universis Christi fidelibus ad quos præsentis Literæ pervenerint, Salutem in Domino, Cum super præteritis Guerrarum discriminibus in Regno Angliæ subortis, quedam Ordinatio seu forma pacis, de nostro Prælatorum * & totius communitatis Regni prædicti unanimi voluntate & assensu provida deliberatione inita fuit, &c. In cuius rei Testimonium huic scripto nos Rex Angliæ, Com. Leicestr. Johannes, Johannes, Willielmus, Henricus & Gilbertus pro nobis & ceteris Baronibus & Communitate Regni Angliæ sigilla nostra apposuimus. Dat. apud Cantuariam die Jovis proxima post festum nativitatis B. Virginis An. Dom. 1264.*

* Note above how our Author hath added in this place the word Baronum, which is not in the Record. The Feast is Septem. 8.

The

John Fitz-
&c. all Ba-
rons.

The King of England, S. de Monfort Earl of Leycester, Gilbert de Clare Earl of Gloucester, and Hertford, John Fitz-John, John de Burgh Senior, William Montcheny, Hen. de Hastings, Gilbert de Gant, and other Barons and great Men of England, to all Christian people to whom these presents shall come, Greeting in the Lord, Whereas upon the by-past contentions of War, a certain Ordinance or Form of Peace, by provident deliberation was begun by the Will and Assent of Us, the Prelats and the whole Community of the Kingdom aforesaid, &c. In testimony of which thing, We the King of England, the Earls of Leycester and Gloucester, John, John, Henry, William and Gilbert, for our selves, and the other Barons, and the Community of the Kingdom of England, have put to our Seals. Dated at Canterbury on the Thursday next after the Feast of the Nativity of the Blessed Virgin, in the year of our Lord, 1264.

This Feast is
on the 8th of
September.

See Dugd. Ba-
ron. Tome 1.
in their sever-
al names.

The Commu-
nity of Eng-
land, the Com-
munity of the
Barons.

Mat. Paris
Additam. fol.
217. lin. 6. n.
30.
A. D. 1258.
Hen. 3. 42.

We find in this Record a Form of Peace begun by the Assent of the King, the Bishops, and whole Community of the Kingdom. And can our Author, or any Man say the Earls and great Barons gave not their consents to that Form of Peace, or were not present when it was made; and if they did, they must be included in, and were a part of this whole Community of the Kingdom. All these persons that with the King make themselves Parties to this Declaration to all Christian People, were Earls and Great Barons, and the very Heads of the Rebels, that now had the King and Prince, &c. Prisoners; and were the same persons that Sealed it for themselves, and the other Barons, and the Community of the Kingdom of England: which Community must be the Community of the Barons and Great Men, Tenants in Capite by Military Service, and no other. How can the Lords or Barons sign any thing for the Commons, as at this day understood: They did not then, nor now do Represent them; if what our Author says in his Appendix be true; so that he must either retract what he said there, or acknowledge this was the Community of the Barons, for whom they put to their Seals; and whether he retracts the first, or confesseth the Last, he gives over his Cause. But that they were the Community of the Barons and Great Men only intended in this and the other Records, will be clear from the following impregnable instance.

Adomat or Aymar de Valentiâ the Kings half Brother by his Mother, was Elect of Winchester, against whom the Barons were much incensed; and he fearing the Effects of their hatred, withdrew himself out of the Kingdom. The Great Men fearing he should go to Rome, and procure himself to be consecrated there, write to the Pope amongst other things, by four Messengers or Procurators which they sent to him, that he would by the fulness of his Power, remove him from the Administration of the Church of Winchester, especially seeing he was only elected and not consecrated.

The

The Title of which Letter is :

A *Littera Missa a Communitate Angliæ Domino Papæ.* Letters sent from the Community of England to the Lord the Pope. And the Direction thus. *Sanctissimo in Christo Patri Alexandro divinâ providentiâ Sanctæ Universalis Ecclesiæ Summo Pontifici, Communitas Comitum, Procerum, Magnatum, aliorumque Regni Angliæ, cum subjectione debitâ, Pedum Oscula Beatorum, &c.*

The Letter from the Community of the Nobility to the Pope.

To the Most Holy Father in Christ, *Alexander* by Divine Providence **Pope**, or Great Bishop of the *Universal Church*, The Community of the *Earls, Noblemen, or Barons, Great Men and others of the Kingdom of England*, with due subjection we Kiss your blessed Feet, &c.

B And to put the matter beyond all doubt and exception, besides **Sir Earls**, and the **Justiciary of England**, I shall shew, that the other four were great Barons which put their several Seals to this Letter, *vice totius Communitatis*. Their names follow.

Mat. Paris ut supra, n. 20. The Letter signed by Earls and Barons only.

- C**
1. *R. de Clare Glovernia & Herefordiæ.*
 2. *S. de Monteforti Legriæ.*
 3. *E. Bigod Mareſchallus Angliæ.*
 4. *H. de Bohun Hertfordiæ & Effexiæ.*
 5. *W. Albemarle.*
 6. *J. de Placeto Warwici Comes, and H. Bigod Justiciarius Angliæ.*

D 1. **P. de Subaudia**, he was the Queens Uncle, and Earl of *Richmond*, and a great Baron.

Mat. Paris fol. 549. n. 30. Dugd. Baron. fol. 49. col. 2.

2. **J. or Johannes fil. Galfredi**; he was a descendent from *Galfrid*, or *Geofry Fitz-Piers*, or **Pierre Earl of Essex**, and Justiciary of England, had his Estate and Barony, and was Grandfather to *John Fitz-John*.

Ibid. fol. 703. col. 2. 706. col. 2.

3. **Jacobus de Audel or Audley**, was a potent Baron, whose Seat was at *Aldithley* in *Staffordshire*.

Ibid. fol. 747. col. 1.

E 4. **Petrus de Monteforti** was a very great Baron; the head of his Barony was *Beldefent-Castle* in *Warwickshire*, and he was the greatest Rebel and Traytor in England, next to *Simon Montfort Earl of Leycester*. He Married *Alice* Daughter to *Henry*, and Sister to *James de Audley*, next above written.

Ibid. fol. 407. col. 1. 2. fol. 409. col. 1. 2. Eight of the eleven were of the same Stamp.

F As I have before, so let me again ask our Author, Did these eleven persons, all very great Earls and Barons, represent the whole Commons or Community of England, as at this day understood, or did they represent the Community of the Barons only, together with the *Altos*, the *Milites*, which held by *Military Service* of the great Barons, and the lesser Tenents in *Capite*, for the whole Community here intended must be one of them. Let him pitch upon which he will, he must yield his Assertion. For certainly these Great Earls, and Barons that sealed this Letter, *vice totius communitatis*,

Earls and Barons did not represent the Commons.

tatis, were not chosen nor sent by the Commons, to this Parliament or Meeting, nor were the Commons represented as at this day by them.

Auctar. Additam. fol. 222. n. 30.

Further the Title of the Popes Answer to these Letters, is very observable, and much to our purpose. *Litteræ Papales missæ Communitati Angliæ, Responsivæ ad eorum petitiones præmissas ad curiam, &c.*

The Popes Letters in Answer to the Petitions of the Community of England sent before to our Court, &c.

Ibid.

Which are directed only, *Dilectis filiis, Nobilibus viris Consiliariis Clarissimi in Christo filii nostri illustris Regis Angliæ ac ceteris Proceribus & Magnatibus Regni Angliæ, Salutem & Apostolicam Benedictionem.*

To our beloved Sons the Noblemen Counsellors of our most dear Son in Christ the illustrious King of England, and the other Noble and Great Men of the Kingdom of England, Greeting and Apostolical Benediction.

The Commons, as at this day known, not to be found amongst the Community of England in old Historians.

How he will find any of our Commons as at this day known amongst this Community of England, I understand not. If he will say the Titles of these Letters, were only the Notes of Mat. Paris upon them, in the old MS. called the Book of St. Albans, or his *Addimenta*, and so not much to be regarded. I answer that in his time he was a very knowing Man, and is now incomparably the best Historian we have; and if these Titles were his Notes, (which cannot be denied) we are sure he truly noted and delivered to us the true sense and meaning of *Communitas Angliæ*, after he had perused the Popes Answer, who were only the *Nobiles viri, Regis Consilarii*, and the *Proceres & Magnates Angliæ*; that is *Baronagium* or *Baronagium Angliæ*, who, as Paris saith, wrote this very Letter to the Pope.

Fol. 97^r. lin. 10.

P. 76. b. lin. 4. 5.

Hist. Novor. f. 105. lin. 3. Fol. 246. n. 50.

The Temporal Earls and Barons called *Regnum*.

And besides this Matter of Fact, there may be reason given, though I shall not lay any stress upon it, why the Earls and Barons or Baronage, were in those times called the *Communitas Regni*; for as *Bracton* hath it, who was a Judge in the time of Henry III. and Edward I. *Regnum ex Comitibus & Baronibus constitutum dicitur*, the Kingdom is said to consist of Earldoms and Baronies. And in this sense it was that *Radmer* says in *subsequenti Navitate Domini Christi Regnum Angliæ ad curiam Regis Londoniæ pro more convenit*, and Paris often calls the Temporal Barons, *Regnum. Conveniente tandem Archiepiscopo Cantuariensi cum Episcopis & Magnatibus Regni Londoniæ in præsentia Regis, tractatum est ibidem per tri-duum inter Regnum & Sacerdotium, &c.*

Ibid. fol. 700. n. 40.

And in a Letter from the Abbats, and Priors to the Pope, amongst other things, they beseech him to abstain from giving Ecclesiastick Preferments to Strangers, especially such as were in the Patronage of the Nobility, by which means, say they, *providetur sanctitas vestra ut Regnum & Sacerdotium nullatenus sunt divisa*; and in very many places the like Expressions.

But

But further, to make good what I have said in the inforcing of this Instance, I shall produce a *Letter* of the Kings, upon *Record*, in answer to the *Pope*, concerning this very *Matter* and *Business*, about which the *Barons* wrote their *Letter* to him.

A Domino Pape Rex Anglia Salutem. Cum reverentia & honore venientem ad regnum Anglia & ad presentiam nostram religiosum virum fratrem Valastum Penitenciarum & Capellanum vestrum a vobis de Fratrum vestrorum consilio destinatum pro restitutione temporalium Episcopatus Winton Adomaro Fratri nostro integre facienda ea quæ decuit suscepimus reverentia & honore. Qui presentatis literis Apostolicis nobis & Baronibus ac Proceribus consiliariis nostris tanquam vir providus & circumspectus pacis ac concordie zelator cum multa benignitate & mansuetudine preces & precepta vestra coram nobis & prelati regni nostri qui tunc nobiscum aderant, ac alia universitate Comitum B Baronum & Procerum regni nostri plene ac diligenter exposuit ut decebat, commemorans & aperiens coram nobis beneficia Romanæ Ecclesiæ innumerabilia ab antiquis temporibus nobis & progenitoribus nostris impensa ac prerogativam multæ gratiæ amoris & favoris quibus nos & regnum nostrum etiam nunc prosequimini inter alios Reges & Principes orbis terræ. Deinde idem frater Valastus multis persuasionibus instantia & sollicitudine astruere & inducere diebus pluribus nitebatur. Nos consilium nostrum, ac universitatem predictam ut eundem Adomarum C fratrem nostrum ad Episcopatum Winton plene restitui pateremur. Alioquin in gratia & favore seu amore vestri & Ecclesiæ Romanæ dispendium pateremur, eo quod si mandatis vestris in hac parte non obtemperaremus contra nos & regnum nostrum cogeremini provocari. Cum ad reddendam justiciam sitis, universis & singulis debitores. Verum licet reverendæ paternitatis vestræ parere beneplacitis totis desideriis affectemus & de tot beneficiis a munificentia vestra nobis & nostris totiens collatis regratiari quamplurimum teneamur. Tamen mandatum hujusmodi quod non solum personam nostram verum etiam universitatem D regni nostri contingit non possumus absque gravi discrimine & subversione jurium & consuetudinum regni ejusdem & contra juramentum proprium adimplere, & quanquam hoc facere vellemus, predicta universitas in hac parte que unius consilii & voluntatis existit propter graves & notabiles excessus predicto fratri nostro objectos; id nullatenus sustineret, &c. Teste Rege apud Winton. xxiii. die Sept.

E Eodem modo scribitur Cardinalibus T. ut supra.

F To the Lord the Pope the King of England Health. We received with what Reverence and Honour became Us, the Religious Man Frier Valast your Penitentiary and Chaplain, sent to Us by the advice of your * Brethren for the full Restitution of the Temporalities of the Bishopricks of Winchester to Our Brother Adomar; who having presented the Apostolick Letters unto Us, and the Barons, and great Men Our Counsellors, as a Discreet and Circumspect Person, a lover of Peace, and Concord, with much Benignity and Mildness fully and diligently as he ought propounded your Requests and Precepts, to Us, the Prelats of Our Kingdom that were then with Us, and the other University of Earls, Barons, and great Men of Our Kingdom, remembring and opening unto Us the innu-

Claus. 42 Hen. 3. m. 4. Dori. The Kings Letter to the Pope, about Adomar Bishop of Winchester.

The University of Earls, Barons, and Great Men

The University of the Kingdom.

* i. e. the Cardinals.

merable benefits of the *Roman* Church in ancient times conferred upon Us and Our Progenitors, and the great love and favour with which you do now honour and respect Us, and Our Kingdom. Furthermore, the same *Frier Velaſt* endeavoured many days together, with much perſuaſion and ſollicitude, to induce Us, and Our Council, and the *Univerſity aforeſaid*, that we would permit the ſame *Adomar* Our Brother fully to be reſtored to the Biſhoprick of *Wincheſter*, otherwiſe that We ſhould loſe the favour of you, and the *Roman* Church, in that if We obeyed not your Commands, you would be provoked againſt Us and Our Kingdom, when as for the doing of Juſtice you are a Debtor to every Man. But although We wholly deſire to obey the good Pleaſure of your Fatherhood, and are bound to be grateful, for ſo many favours beſtowed on Us, and Ours, yet We cannot obey this Command, which not only concerns Our Perſon, but alſo the *Univerſity* of Our Kingdom, without great danger, and the ſubverſion of the Laws and Cuſtoms of the ſame Kingdom, it alſo being contrary to Our Oath; and though we would do it, yet the *Univerſity aforeſaid*, being of one Mind and Reſolution, in this Matter, for the great and notable exceſſes or faults objected to our foreſaid Brother, will in no wiſe ſuffer it, &c. Witneſs the King at *Winton* 23 of *September*.

In the ſame manner the King wrote to the Cardinals.

Here we have *Frier Velaſt* preſenting the Popes Letter to the *King* and *Barons* and great Men of his Council, and propounding his Requeſts and Commands, to the Prelats of the Kingdom, and the other Univerſity of *Earls*, *Barons*, and great Men of the Kingdom, and ſoliciting the *King*, *Council*, and *Univerſity aforeſaid*, fully to reſtore *Adomar*, the Kings half Brother to the Biſhoprick of *Wincheſter*. To which the King Answers, That his Demands, not only concerned him, but alſo the *Univerſity* of the Kingdom, and that though he were willing to do it, yet the Univerſity of the Kingdom aforeſaid, would in no wiſe ſuffer it; Who therefore that well obſerves this Letter, and that in *Matthew Paris*, from the Barons to the Pope about the very ſame matter, and what hath been ſaid before, can doubt, whether the *Univerſity* of the Kingdom, were the ſame with the *Univerſity* of the *Earls*, *Barons*, and Great Men?

And now to answer his Demand at the cloſe of this Argument, who the *Communitas* were after the words *Prelati*, *Barones*, & *Dignitates*? I affirm they were all theſe put together, including alſo the leſſer *Tenents in Capite*, that were the *Communitas Anglie*, *tota Nobilitas Anglie*, *Univerſitas Baronagii*, *Univerſitas Regni*, &c. as will be more fully made out upon the conſideration of his third Obſervation.

The Univerſity of the Kingdom.

The ſame with the Univerſity of *Earls*, *Barons*, and Great Men.

P. 38, and 53.

Communitas Anglie, or the Community of *England*, were all the Orders of the Nobility put together.

The

The Fifth Argument Consider'd.

A Which is grounded upon a Claim by **P**etition of the **C**ommons, not *Protestation*, as he insinuates, That they had ever been a Member of the Parliament, or that no Statute, or Law, should be made without their Assent.

P. 39.

The *Petition* it self, with the *Kings* Answer, and what else is contained in the same Number in this Record follows.

Rot. Parl. 2.
Hen. 5. p. 2.
n. 10.

B *Item fuit a Remember que les Comens baillerent a Roy nostre Seignour treffoverain en cest present Parlement un Petition dont le tenure ensuit de mote en mote.*

N. 10.

Also it is to be remembred that the **C**ommons delivered a Petition to the King our most Sovereign Lord in this present Parliament, the Tenor of which follows word for word.

Our Sovereign Lord.

C
D
E
F Your humble and trewe Lieges that ben come for the Comens of your Lond bysechin on to your ritz Wissensse. Tha soo as hit hath evere be thair Libertie and Freedom, that thare should noo Statute, noo Law be made of las than they yaf thereto thair Assent considering that the Comens of your Lond, the which that is, and ever hath be a Member of your Parlement, been as well assentirs as petitioners: that fro this time forward by compleint of the Comens of eny of mischief asking Remedy by mouth of their Speker for the Comens, oather else by Petition written, that there never be noo Law made there upon, and ingrossed as Statut, and Law, neither by additions, neither by diminution, by noe manner of terme, ne termes, the which shold change the Sentence, and the intent asked by the Speker mouth, or the petitions by fore said yeven up in wryteing by the manner foresaid without assent of the forsaid Comens, considering our Sovereign Lord that it is not in nee wise the intent of your Comens, gif it be se that they arke you by spekeing or by wryteing too things or thre, or as many as theym list, but that evere it stoud yn the freedom of your hie Regalie to grant which of the too you lust, and to wetune the Ramanent.

At this time it was the practice of the Comons to complain of Mischiefs, and ask Remedies, &c.

To deny.

The King of his Grace especial graunteth that fro henceforth, nothing be enacted to the Peticion of his Comun, that be contrary of hir asking what by they shulde be bounde without thair Assent, saving alwey to our Liege Lord his *reall prerogatyf to grant and deny what him lust of your petitions and asking aforesaid.

* Royal.

Also the King having a great care of the Estate of Holy Church, and the whole Kingdom, del advys & assent des Seignours Esprituelx & Temporels & a la Request de ses Comens avant ditz, faitz certain Estatutz Declaracions & Ordinances. By advice and assent of the Lords Spiritual and Temporal, and at the request of his Commons afore-

Ibid. n. 10.

aforesaid, made certain Statutes, Declarations, and Ordinances, &c. which follow in the Record, N. 11. &c.

The Design of
that Petition.

The design of this Petition was not to claim the Antiquity of their existence, but their Right, that nothing might be Enacted without their Assent, contrary to their Intent and Liking; and to shew that it was never done since the Commons were a Third Estate, or as they say a *Member of Parliament*, and to prove that which no body denies, that the Assent of the Commons is now required to the making of Statutes and Laws he runs into a needless Discourse, and cites many Authorities since the 49 of *Hen. III.* that the Commons became a third Estate, which is what he further says upon this Argument. When as if he had attended to the *Kings Answer* to this Petition, and what immediately follows it in the very same Number, upon the *Parliament Roll* as 'tis here cited, he might have found the manner how the Commons concurred to the making of Laws at that time, without troubling the Reader with his Citations and Observations on them to no purpose.

P. 41.

P. 40.

But he takes only so much out of this Petition as he thinks serves his turn, and unhandsonly calls it a *Claim* and *Protestation* in page 39, and lays the great stress of his Argument upon the words, *barb ever be*. What, were the Commons of *England* as now Represented by *Knights, Citizens, and Burgeses* ever an essential constituent part of the Parliament, from eternity, before man was created? Or have they been so ever since *Adam*? Or ever since *England* was peopled? Or ever since the *Britains, Romans, and Saxons* inhabited this Island? Certainly there was a time when they began to be so represented. And that is the Question between us, which whether this Gentleman, or my self, be in the right, I leave to any impartial Judge.

*Rot. Parl. 11.
Ric. 2. part. 2.
artic. 11. Contra De la Poole, &c.*
The Parliament hath been mistaken in Periods, and Computation of Time.

And further, that Parliaments sometimes have been mistaken, in Computation of time, and periods when things began, and have made things of longer duration then they really were, there is this Instance, *Item, La ou la graunt Seigneurie, & la terre d'Irland, ejant & out este, de Temps d'ount memorie Court, percelle del Corone Dangleterre, &c.*

'Tis here said that *Ireland* was parcel of the Crown of *England* time without memory, whereas it was Conquered, and annexed to the Crown of *England* in the time of *Henry the Second*, about 200 years before that time; and the memories of the Conquest, could not but be evident, and a thing whose beginning is known, cannot be said to be an immemorial thing. So when the Commons say they ever have been a Member of Parliament, 'tis not to be understood, they were so from the Original of Common, or great Councils, *Colloquiums*, or Parliaments, but that they had been so a great while, as *Ireland* had been parcel of the Crown of *England*.

Pet. p. 51.

In the Sixth Argument there is nothing worth Notice.

The

The Seventh Argument Considered.

A **W**Hich he draws from the defect and loss of *Parliament Rolls* of *Henry the Third*, and *Edward the First*, and from the *Universal Silence* of all *Records*, and our *Ancient Historians* contemporary, and succeeding 49 *Hen. 3.* till our days.

His own words, p. 55.

I confess the *Parliament Rolls* of *Henry the Third*, and *Edward the First*, are wanting, so that we cannot be so well assured what was done in the *Parliaments* of those times, as we may be afterwards; yet there are *Writs* of *Summons* extant upon the *Close Rolls*, before, and in those times, by which the *Bishops*, *Earls*, and *Barons*, were summoned to *Parliaments* or *Great Councils*: and we have all the *Close Rolls* of *King John*, and *Henry the Third*, in the *Dors* of which anciently most of the *Writs* of *Summons* to the *Commons* in *Other Kings Reigns* are entred (few on the *Patent Rolls*, which we have likewise) 'Tis therefore very strange, if the *Commons* were represented by *Knights*, *Citizens*, and *Burgesses*, and summoned to *Parliament* as at this day, that there cannot be found any *Summons* to them upon these *Rolls*, as well as to the *Lords*.
C For the *Readers* satisfaction, I shall set down a *Writ* of *Summons* to the *Lords* in *King Johns* Reign, and another in *Henry III.*

The *Parliament Rolls* of *Hen. 3.* and *Edw. 1.* wanting.

There are *Writs* of *Summons* in those times.

D *Rex Episcopo Sarum, mandamus vobis rogantes quatenus omni occasione & dilatione postpositis, sicut nos & Honorem nostrum diligitis, sitis ad nos apud London die Dominica proxima ante Ascensionem Domini, nobiscum tractaturi de magnis & arduis negotiis nostris & communi Regni nostri utilitate; Quia super his, que a Rege Francie per nuntios nostros & suos nobis mandata sunt, unde per Dei Gratiam bonum speramus provenire, expedit habere Consilium & aliorum Magnatum terre nostre quos ad diem illum & locum fecimus convocari. Vos etiam ex parte nostra & vestra Abbates & Priores Conventuales totius Diocesis vestre citari faciatis, ut ad Concilia predicta vobiscum intersint, sicut diligitis nos & communem Regni utilitatem.*

Cl. 6. Johanni m. 3. Dors. Summons to Parliament in the time of King John. An. Dom. 1205.

Teste, &c.

E *Rex venerabili in Christo Patri W. Eborum Archiepiscopo salutem, mandamus vobis, rogantes quatenus sicut nos & Honorem nostrum pariter & vestrum diligitis, & in fide qua Nobis tenemini, omnibus aliis negotiis omissis, sitis ad nos apud London a die Sancti Hillarii, in quindecim dies ad tractandum nobiscum, una cum ceteris magnatibus nostris quos similiter fecimus convocari de arduis negotiis nostris statum nostrum, & totius Regni nostri specialiter tangentibus, & hoc nullatenus Omittatis. Teste Rege apud Windlesf. Decimo quarto die Decembr.*

Claus. 26 H. 3. m. 13 Dors. Summons to Parliament in the time of H. 3. An. Dom. 1242.

Eodem modo scribitur omnibus *Episcopis* *Abbatibus* *Comitibus* & *Baronibus*.

The

See in the Answer to the Ninth Argument another Writ of Summons, 38 Hen. 3.

The whole Transactions of this Parliament, according to the date of the Writ, are to be found in *Mat. Paris*, fol. 581, n. 20, &c.

These are sufficient to shew there is not such an *Altum silentium*, so deep a silence of all *Records* as this Gentleman avers. And for our *Ancient Historians*, *Mat. Paris*, who wrote his *History* at the Command of *Hen. 3.* and died in the 43d year of his Reign, 1259. doth abound in remembring *General Councils*, *Colloquia*, or *Parliaments*, and things agitated in them; As also *William Rishanger*, a Monk of the same Abby, who continued his *History* at the command and charge likewise of the same *King*; of which I present the Reader with this *Collection*, and leave him to judge, whether in those days it is probable, the *Commons*, as at this day represented, were an *Essential* part of *Great Councils*, or *Parliaments*, and so end my Answer to this Argument.

Mat. Paris, fol. 209. n. 50.

A *Nno Gratia 1204. in Crastino circumcissionis conveniunt ad Colloquium apud Oxonium Rex & Magnates Angliæ, ubi concessa sunt Regi Auxilia Militaria, de quolibet scuto due Marca & dimidium.*

Ibidem, fol. 239. n. 40.

Interfuerunt Concilio apud Sanctum Albanum Galfridus filius Petri (he was Justiciary) & Episcopus Wintoniensis, cum Archiepiscopis & Episcopis & Magnatibus Regni.

Ibidem, fol. 249. n. 30.

Legatus grande Concilium apud Sanctum Paulum in Urbe Londinensi congregavit, ubi congregatis Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis ad negotium interdicti spectantibus, proposuit, &c.

Ibidem, 310. n. 20.

Anno Domini 1221. Rex Henricus ad natale Domini apud Oxonium tenuit Curiam suam, Presentibus Comitibus & Baronibus Regni.

Ibidem, fol. 316. n. 50. 1223.

In Octavis Epiphaniæ Hen. Rex apud Londonias veniens cum Baronibus ad Colloquium.

Ibidem, fol. 320. n. 20.

Rex cum Archiepiscopis, Episcopis, Comitibus, Baronibus, & aliis multis conveniunt ad Colloquium in octavis Sanctæ Trinitatis apud Northampton de regni negotiis tractaturi: voluit enim Rex uti consilio Magnatum suorum de Terris transmarinis.

Ibidem, 367. n. 50.

Anno Domini 1231. 7 Calend. Febr. conveniunt ad Colloquium apud Westmonasterium, Rex cum Prælatibus & aliis Magnatibus Regni.

Ibidem, fol. 372. n. 40. 16 Hen. 3.

Anno Domini 1232. Nonas Martii ad Colloquium apud Westmonasterium ad vocationem Regis, Magnates Angliæ, tam Laici quam Prælati. When the King told them he was much Indebted, by reason of his Wars beyond Sea, and desired Aid of them, Comes Cestriæ Ranulphus pro Magnatibus Regni loquens, Respondet; Quod Comites, Barones, & Milites, qui de eo tenebant in capite, cum ipso ibi erant corporaliter præsentibus & pecuniam

niam suam ita unanimiter effuderunt, quod inde pauperes omnes recesserunt, unde Regi de jure auxilium non debebant, & sic petita Licentiâ, Laici omnes recesserunt.

Apud Lanheiam in exaltatione Sanctæ Crucis, ad Colloquium coram Rege convenerunt Episcopi & aliarum Ecclesiarum Prælati, cum processibus Regni, concessa est Regi quadragesima pars Mobilium.

Ibid. fol. 377.
n. 50.
eodem Anno.

A

Convenerunt ad Colloquium 5 Id. Apr. Rex cum Comitibus & Baronibus, & Archiepiscopis, cum suis Suffraganeis.

Ibid. fol. 397.
n. 10. 1234.
18 H. 3.

1236. 3 Calend. Maii congregati sunt Magnates Angliæ Londini ad Colloquium de negotiis Regni tractaturi.

Ibid. fol. 429.
n. 30.

B

1237. Scripsit Rex omnibus Magnatibus suis, ut coram eo, & Domino Legato, in festo exaltationis Sanctæ crucis apud Eboracum convenirent, de Arduis Negotiis regnum contingentibus tractaturi.

Ibid. fol. 446.
n. 20. 21 H. 3.

Imminente Purificatione B. V. totius Angliæ Nobilitas tam Prelatorum quam Comitum, & Baronum secundum Regium præceptum est Londini congregata.

Ib. fol. 580. l. 6.
An. Dom. 1242.
26 H. 3.

C

Die Translationis B. Thomæ Martyris habitum est Magnum Concilium inter Regem & Magnates apud Wintoniam super multiplici Regni totius & maxime Ecclesiæ Desolatione.

Ibid. fol. 709.
n. 30. An. Dom.
1246. 30 H. 3.

In Crastino Purificationis Beatæ Mariæ Dominus Rex cum suis Magnatibus tractatum habens diligenter per plures dies concilium urgens, Dies protelavit.

Ibid. fol. 720.
n. 40. An. Dom.
1247. 31 H. 3.

D

Dominus Rex Jussit omnem totius Regni Nobilitatem convocari, de statu istius tam manifestè periclitantis, &c. Prælatos autem maxime ad hoc Parliamentum vocavit arctius, quia videbat eos Rex tam frequenter depauperari per Papales exactiones.

Ib. fol. 730. l. 6.
1247. 31 H. 3.

In Octavis Purificationis B. V. edito Regio convocata convenit totius Regni Angliæ Nobilitas Londini, advenerunt igitur illuc, exceptâ Baronum, Militum, Nobilium, nec non & Abbatum, Priorum & Clericorum Multitudine copiosa, Novem Episcopi, cum totidem Comitibus, which was Prorogued to fifteen days after John Baptist.

Ibid. 743. n. 40.
1247. 31 H. 3.

E

In Quindenâ Paschæ quæ vulgariter Pokeday appellatur, convenerunt Londini omnes Nobiles Angliæ, tam viri Ecclesiastici quam Seculares, ita quod nunquam tam Populosa Multitudo ibi antea visa fuerit congregata: Tandem in hoc convenerunt communiter, ut Regi renuntiaretur ex parte Univerſitatis quod negotium, &c.

Ibid. 904 n. 40.
1255. 39 H. 3.

F

Et post Diem Martis quæ vulgariter Pokeday appellatur factum est Parliamentum Londini.

Ibid. fol. 963.
n. 40. An. Dom.
1258. 42 H. 3.
P. 55.

These several Parliaments, or Great Councils, besides those which are more particularly taken notice of in this Answer, were held in the Reigns of King John, and Henry the Third, and therefore not such a silence of Parliaments in the Historians of those times, as our

Author would have the World believe; and from these, many hints may be taken, and observations made, which are repugnant to his Errors, and if he can, let him pick out any Commons in these Great Councils, as at this day chosen and represented.

His eighth Argument hath nothing worthy a serious Consideration.

A

The ninth Argument considered.

P. 71.

Which is from the Comparifon of the antient *Generale Concilium*, or Parliament of Ireland, in Anno 38 Hen. 3. with ours in England, wherein there were Citizens and Burgeffes, as our Author thinks, which was eleven year before the pretended beginning of the Commons here.

B

Rot. Pat.
38 Hen. 3. m. 1.
Mr. Petits Ap-
pendix p. 166.

He grounds this Argument upon the two following Records; *Rex venerabilibus in Christo patribus, omnibus Archiepiscopis, Episcopis, & Dilectis sibi in Christo, Abbatibus, & Prioribus, & dilectis fidelibus suis universis Comitibus, Baronibus, Militibus, & aliis fidelibus suis Hibernie, salutem. Mittimus Dilectum & fidelem nostrum J. filium Galfridi Justitiarium nostrum Hibernie, ad partes Hibernie, ad exponendum vobis statum nostrum & terrae nostrae Vasconiae, & pericula nobis imminencia, & ad tractandum vobiscum super Auxilium nobis faciendum contra Regem Castell. Qui dictam terram nostram Vascon. in manu forti in Quindenam Pascha primo futuram, hostiliter est ingressurus, vobis mandantes quod eidem Justitiario nostro in iis quae vobis ex parte nostra super praedicto auxilio perquirendo intimabit fidem adhibeatis. In cujus, &c. T. Alianora Regina nostra, & Richardo Comite Cornubiae apud Westm. 2^o Die Febr. per Reginam.*

C

D

Ibid. & Mr. Pe-
tits Appen-
dix, p. 167.

Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, liberis Hominibus, Civibus, Burgensibus, & omnibus aliis fidelibus suis terrae suae Hibernie salutem. Mittimus fratrem Nicholaum de Sancto Neoto, fratrem Hospital. Sancti Johannis Jerusalem in Anglia ad partes Hibernie ad Exponendum vobis una cum J. filio Galfridi Justitiario nostro Hibernie, statum nostrum & terrae nostrae Vascon. & pericula nobis imminencia de hostili adventu Regis Castell. Qui nullo jure sed potentia sua confusus terram nostram Vascon. per ipsius fortitudinem à manibus nostris auferre & à Dominio Regni Anglia segregare proponit universitatem vestram quantum possumus affectione Rogantes quatinus nos & Jura nostra taliter indefensa non deserentes nobis in tanto periculo constitutis Quantumcunque in mundo poteritis de Gente & pecunia ad praedicta terra nostra Defensionem, quam praedictus Rex in manu forti in Estate proxime futura hostiliter est ingressurus, subveniatis, quod in vestrum Honorem vertetur sempiternum, cum ex contrario hujus negotii eventu non tantum nobis, set singulis Regni nostri & terrae nostrae Hibernie — & Rerum Dampnum immineat periculosum. Hiis nostris Angustiis taliter Compatientes, quod nos & haeredes nostri, vobis & haeredibus vestris sumus non immerito obligati,

E

F

obligati, in cuius, &c. Teste A. Regina & R. Com. Cornub. apud Windsor 17^o Die Febr.

Per Reginam.

A The King to the venerable Fathers in Christ, all the Archbishops and Bishops, and to his Beloved in Christ, the Abbats and Priors, and to his Beloved Feudatories, the Earls, Barons, Knights, and other his Liege-men, or Feudatories of Ireland, Health; We send our Beloved and Faithful J. Fitz-Geofry our Justiciary of Ireland, to the parts of Ireland, to expound to you our State, and the State of our Land of Gascony, and the Dangers impending on us; and to treat with you about an Aid to be made to us against the King of Castile, who within fifteen days of Easter next coming, intends, with Arms, to invade our Country of Gascony. Requiring you to believe, what he shall say unto you from us, concerning the said Aid. B Witness Alianor our Queen, and Richard Earl of Cornwall, at Westminster the second day of February.

By the Queen.

C The King to the Archbishops, Bishops, Abbats, Priors, Earls, Barons, Knights, Free-men, Citizens and Burgesses, and all other his Liege-men or Feudatories of his Kingdom of Ireland, Health: We send Frier Nicholas of St. Neots (or Needs) a Frier of the Hospital of St. John's of Jerusalem in England, to the parts of Ireland, to expound to you, together with J. Fitz-Geofry our Justice of Ireland, our Condition and the State of our Country of Gascony, and the Danger we are in, by reason of the Expectation of an Hostile Invasion by the King of Castile, who trusting only to his Power and Strength, without Right, Designs to take it from us, and sever it from the Dominion of England; with what affection we are able, we require your University that you would not Desert D us in so great Danger, and leave our Rights without Defence, and that you would give us the utmost assistance you can, in Men and Money, for the Defence of our said Country, that so it may rebound to your eternal Honor, so that we and our Heirs, may worthily be obliged to you and your Heirs; witness Alianor the Queen, and Richard Earl of Cornwall, at Windsor the seventeenth day of February.

By the Queen.

E From these Records, but especially the last, he would prove that the Commons, as now represented by Knights, Citizens, and Burgesses, were called to Parliament in the 38 of Henry the Third in Ireland, and consequently in England, because the whole Platform of the Irish Government was sent from hence. It may justly be doubted whether either Justice Fitz-Geofrey or Frier Nicholas had Commission to call a Parliament; it doth not appear they had by these Records; or whether this Aid required, was a Tax, or Free Contribution, given and granted by several great Meetings or Conventions of the Irish in several distinct places, for after that manner they sometimes met, for the Transactions of publick Business, as is evident from Record, about twenty years after this Employment of Father Nicholas. F Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus & omnibus aliis Anglicis de

Doubtful whether these Conventions of the Irish were Parliaments.

Rot. Pat. 5. Ed. 1. M. 13. Mr. Petit p. 74.

Terra Hibernia, &c. vobis mandamus quod ad certos Dies quos ad hoc provideritis, videlicet circa festum Nativitatis Beatae Mariae Virginis, in aliquibus locis oportunis conveniatis & diligenter inter vos Tractatum habeatis, utrum fuerit praejudicio vestri, & libertatum & consuetudinum vestrarum, &c. The King to the Archbishops, Bishops, Abbats, Priors, Barons, Knights, and all English in the Kingdom of Ireland, We Command you, that on certain days which you shall choose, about the Feast of the Nativity of the Virgin Mary, you meet in some convenient places, and treat diligently amongst your selves, whether it will be to the prejudice of you, your Liberties and Customs, that the natural Irish enjoy the same Laws and Customs in common with you, &c.

A

The Reason of calling a Parliament, 38 Hen. 3. A.D. 1234. Paris, Additum, fol. 189. n. 50.

Though perhaps this might be a sufficient Answer, yet I insist not upon it, but apply my self to examine the Records themselves, and give the History of the Affair they mention. The King at this time was in Gascony, and in great want of Men and Money to carry on the War against the Rebellious Gascoines, and the King of Castile who assisted them. He wrote to the Queen and his Brother Richard Earl of Cornwall, (who were Regents in his absence) to call a Parliament on the morrow after St. Hillary, but before they received the Kings Letters, the time was too short for their meeting then, and therefore they summoned it to meet at Westminster, on the Quindene of that Feast which was on the 27th of Jan. but five or six days before the Date of the first Record; And did meet accordingly at that time and place; it may very well be believed that the Queen and Earl did perceive this meeting would prove unsuccessful, when they wrote the first Letter in the Kings name, by Justice Fitz-Geoffry, to the Archbishops, Bishops, Abbats, Priors, Earls, Barons, Knights and Liegemen, or Feudataries of Ireland only, but when they saw the Baronage in Heats and Animosities amongst themselves, and against the King, and that their meeting ended without contributing to the Kings necessities; fifteen days after they reinforce the first Letter, with a second by Frier Nicholas, and do then further write to the Citizens and Burgeses, that they might thereby procure a greater Sum, which was the only Design of writing to them; for if the Men and Money were to be Raised and sent by Authority of Parliament, both the Letters or Writs were directed to such Persons as could sufficiently make a Parliament, or the Capital Justice of Ireland, was a very ignorant Person, and did not know the constituent parts of a Parliament, (which is hardly to be supposed;) but if he did know the constituent parts of a Parliament, the Assembly, according to the Direction of the first Record, without Citizens and Burgeses, was a Parliament, and so his Argument from this Record, is of small Consideration.

B

Ibid. Hist. fol. 881. n. 30.

C

The Reason why the Irish Citizens and Burgeses were convened.

D

E

Claus. 38 H. 3. M. 14. Dorf. de Magnatibus vocatis ad Concilium. Note Mat. Paris calls this a Parliament.

But let us see what the English Parliament was *de facto*, which was summoned to meet about the same Business of Gascony, but five or six days before the Date of the first Record; and follow matter of fact, rather than an Argument by comparison. The Summons to this Parliament or Council, are extant on the close Roll of this year.

F

Rex Bonifacio Cantuariensi Archiepiscopo salutem, cum quadam ardua & urgentia negotia statum nostrum & Regni nostri tangentia habeamus

mus

A *mus vobis communicanda quæ sine consilio vestro & aliorum Magnarum nostrorum nolumus expedire, vobis mandamus in fide qua nobis Incemini firmiter injungentes, quatinus sicut nos & honorem nostrum diligitis nullatenus omittatis quin à die Sancti Hillarii proximo futuro in quindecim dies sitis apud Westminster coram Regina nostra, & Richardo comite Cornubiæ fratre nostro comorantibus in Anglia, & aliis, quos ad eundem diem missuri sumus de consilio nostro Vasconie audituri Bene-placitum nostrum & voluntatem, & cum præfato Concilio nostro super prædictis negotiis tractaturi, nec retardetis adventum vestrum, quin sitis ad dictum diem tempestive Testibus A. Regina & R. comite Cornubiæ apud Westminster 27. die December.*

B The King to Boniface Archbishop of Canterbury, Greeting, Whereas we have certain arduous and urgent matters touching us and the State of our Kingdom to be communicated to you, which without the advice of you and our other great men, we would not transact. We command, firmly injoyning you, by the Allegiance in which you are bound to us, as you love us and our Honour, that you will in no wise omit to be at Westminster fifteen days after St. Hillary next coming, before our Queen and Richard Earl of Cornwall our Brother, remaining in England, and others of our Council of Gascony, which we shall send at the same day, to hear our good will and pleasure, and with our foresaid Council to treat about the matters aforesaid: and you are to be there in good time, on the day appointed; Witness Alianor the Queen, and Richard Earl of Cornwall at Westminster the 27. of December.

Summons to the Parliament, 38 H. 3.

D Of this very Council Mat. Paris says, Anno Dom. 1254. Sexto Kalendas Februarii die videlicet Sancti Juliani convenissent universi fere Angliæ Magnates, viz. Comes Marefchallus R. Bigod, Gilbertusque de Segrave, speciales Domini Regis nuntii, ad Parlamentum venientes, ex parte ejus propositum suum præcordiale, universitati Angliæ nuntiantes, adierant autem illuc comes Richardus frater Domini Regis Scilicet comes Cornubiæ, cum Domina Regina, &c. In the year of our Lord 1254. (which was 38 of Henry the Third, on the sixth of the Calends of February, that is to say, on St. Julian's day, almost all the Great men of England came together, and to the Parliament, where the Earl Marshal Roger Bigod, and Gilbert de Segrave, the Special Messengers from the King, declared his hearty Intentions and Requests to the University of England; here were present Richard Earl of Cornwall the Kings Brother, with the Queen: Now I shall shew what the Great Men and University of England were, that constituted this Parliament, and leave it to the Judgment of the Reader, whether the Commons as now, or whether any Citizens or Burgeses were summoned to it. Of this Parliament Paris says, (after he had told in what Heats, and of what Temper the People were) Sic igitur solutum est concilium casum & inane; so this Council did nothing. And then refers to Earl Richard's Letters, wherein he gave an account to the King, of the Issue of this Parliament, in his Book of Additaments, which are in these words.

Fol. 881. n. 30.

The Constituent parts of that Parliament.

Ib. f. 882. n. 10.

F *Domino Regi Angliæ, &c. Regina & Richardus Comes Cornubiæ Salutem. Recepimus literas vestras ad Natale Domini proxime præteritum*

Libro Additament. fol. 189. n. 50

Who were the
Constituent
parts of the
Parliament.
38 of Hen. 3.
Note the sixth
of the Calends
of Febr. the
Feast of St. Ju-
lian and the
Quindene of
St. Hillary,
were all the
same day, that
is, the 27th. of
January.

The Citizens
and Burgeses
in Ireland, came
from such Ci-
ties and Burghs
as held of the
King.

Claus. 21. H. 3.
M. 22. dorfo.

teritum, quod in Crastino Sancti Hillarii Convocaremus Archiepiscopos, Episcopos, Abbates, Priores, Comites, & Barones Regni Angliæ, ad ostendendum eis statum vestrum, & adventum Regis Castellæ in Vasconiam contra vos. Et quia Brevitas Temporis non patiebatur, quod dicti Magnates, ad dictum diem possent convenire, vocavimus eosdem apud Westmonasterium in Quindena dicti Festi Sancti Hillarii. Quibus Congregatis, & expositis, eis, adventu dicti Regis, & statu vestro Responsum Recipimus, &c. To the King of England, &c. The Queen and Richard Earl of Cornwall Health. We received your Letters at Christmas last past, that we should Summon the Archbishops, Bishops, Abbats, Priors, Earls, and Barons of the Kingdom of England, to shew unto them your Condition, and the coming of the King of Castile into Gascony against you, and because of the shortness of time, the said Great Men could not meet at that day; we summoned them to meet at Westminster in the Quindene of the said Feast of St. Hillary: To whom when they were come together, having declared the expected Invasion of the said King, and your Condition, we received Answer, &c. De facto, these were the Constituent parts of the English Parliament, that treated about the very same Matters which were to be propounded to the Irish.

If any man asks a reason why the Directions of the last Irish Record were so general? I answer, it was to take in all the Tenents in Capite, and all others that had any special Priviledges from, and dependence upon the King, to make the Aid and Assistance of Men and Money the greater, since the English Parliament was broken up, without doing any thing for him; and that the Cities and Burghs were really the Kings Cities and Burghs, as his Demeasns, he being Lord of them, or so reputed and esteemed, from the Priviledges they injoyed from, or under him, by Charter or otherwise.

To Illustrate at least, if not fully to evince this Point, I shall produce an Irish Record or two concerning the like matter, about seventeen years before the Date of these. Rex venerabilibus in Christo Patribus universis Dei Gratia Archiepiscopis, Episcopis, Abbatibus, & Prioribus, & dilectis, & fidelibus suis Comitibus Baronibus Militibus & liberis hominibus in Hibernia constitutis ad quos presentes littere pervenerint Salutem. Cum propter maritadium dilecte Sororis nostre Isabelle quam maritavimus Domino Imperatori sicut satis audistis non solum eidem Imperatori set & Domino Pape & aliis propter diversa regni nostri negotia in magna teneamur summa pecunia & ultra modum debitis oneremur adhuc licet fideles nostri de regno nostro Angliæ ad hoc efficax nobis consilium impenderint Universitatem vestram rogandam duximus cum affectu quatinus cum speremus de liberalitate vestra quod in urgenti necessitate nostra consimilem gratiam nobis facere debeatis nec facile sit nobis sine adminiculo vestro à tam gravium onere debitorum liberari juxta fiduciam quam de vobis reportamus ita liberaliter & efficaciter nos juvare velitis ad liberalitatem vestram predictam. Cum per Justiciarium nostrum Hibernia fueritis inde ex parte nostrâ requisiti quod non solum ex impenso nobis auxilio possitis ab aliis merito commendari set exinde debitores nos constituatis ad perpetuas gratiarum actiones.

The

A The King to the venerable Fathers in Christ, the Archbishops, Bishops, Abbots and Priors, and to the Earls, Barons, Knights and Free-men of Ireland, Greeting, whereas for the Marriage of our beloved Sister *Isabel* to the Emperor, and for certain other Matters concerning our Kingdom, we are much indebted to the said Emperor, the Pope, and others, although our Feudataries of *England* have given us considerable assistance; yet we think fit earnestly to desire your University; whereas in our urgent necessity you ought to be liberal, and afford us the same bounty. Neither is it easie for us, without your help, to be freed from so great a Burthen of Debts. And therefore according to the Confidence we have in you, we expect a free Benevolence when you shall be thereto required by our Justice of *Ireland*, that you may not only be commended by others, but thereby have us your Debtor for perpetual thanks.

B *Rex omnibus probis hominibus suis de Civitatibus Burgis & Dominicis suis in Hibernia, salutem. Sciatis quod dedimus in mandatis dilecto & fideli nostro M. filio Geroldi Justiciario nostro Hibernie quod pro diversis debitis nostris quibus sumus plurimum onerati acquietandis tallagium super vos assideri faciat ad opus nostrum sicut Civitates Burgos & Dominica nostra in regno nostro talliari fecimus & inde vobis mandamus quod eidem Justiciario nostro ad hoc intendentes sitis & respondentes; In cujus rei Testimonium, &c.*

Ibidem.

The Cities, Burghs, and Kings Demeasns in *Ireland* Talliated.

D The King to all his good men of Cities, Burghs, and his Demeasns in *Ireland*, Greeting, Know ye that we have commanded *M. Fitz-Gerold* our Justice of *Ireland*, that for the discharging of our great Debts, he sets a Tallage upon you for our use, as we have caused our Cities, Burghs, and Demeasns in our * Kingdom to be Talliated. And herein we command you to comply with, and be obedient to our Justiciary; In witness whereof, &c.

* i. e. *England*, for *Ireland* was then but a Dominion; and the Kings Title. but *Dominus Hibernie*.

E Certainly there was no difference between the Cities and Burghs, in the 21 of *Henry* the Third, and the 38 of *Henry* the Third, they were all *Civitates & Burgi Dominici*, the Kings Cities and Burghs, only here they were Talliated by the Justiciary; and in the 38th he urged them to a Free-Gift or Benevolence, as in this year he did the Archbishops, Bishops, Earls, Barons, Knights and Free-men: And from thence it can never be proved, that the Cities and Burghs in *Ireland* were then Represented by Citizens and Burgeses, and after the same manner as the Cities and Burghs in *England* now are.

Not to be proved from the *Irish* Records, that the Citizens and Burgeses were Represented in Parliament in the time of *Hen-3*.

F

The

P. 78.

*The Last, or (as he calls it) a Supplemental
Argument Considered.*

IT is grounded upon the Parliaments of *France, Spain, Portugal, Denmark, Sweden, and Scotland*, having had in them, from time immemorable, both *de Jure*, and *de Facto*, Delegates and Representatives from Cities, great Towns or Boroughs. It would take up too much time, and swell the Answer to, or Consideration of this Argument, to an unnecessary bulk, to treat here of the constituent parts of these Foreign Councils, Conventions, Parliaments, Diets, &c. at first, and very antiently they were all the same; Emperors or Kings with their Earls, Barons, Bishops and great Officers, as is evident from all the old *German and French* Authors. And since Cities sent Deputies in *Germany and Italy*, they were only from Imperial Cities, *Berold. Discurs. Polit. p. 126.* but of these he saith little himself.

P. 82.

Stat. Will. Reg.
fol. 2. c. 7.
They are Mr.
P's own words

Seeing therefore he applyeth himself in the management of this Argument, almost altogether to the Constitution of the Kingdom of *Scotland*: I shall follow him, and discover what a wonderful man he is, in the knowledge of the *Scottish* Laws and Antiquities. The first Authority he useth, is an Assize or Statute made in the time of King *William*, Sir-named *Leo*, who began his Reign *A. D. 1105.* in the Fifth of our *Henry* the First, and reigned nine and forty years, and cites the Statutes of the same King, published by Sir *John Skene*, made at *Perth*, where several Laws were ordained, to the observance whereof, *Episcopi, Abbates, Comites, Barones, Thani, & tota Communitas Regni tenere firmiter Juraverunt.*

P. 83.

Stat. Alex. 2.
fol. 22. c. 2.

P. 83.

His next and only further Instance which he useth, is the Reign of King *Alexander* the Second, who began it *A. D. 1214.* which was the sixteenth year of our King *John*, and reigned five and thirty years, so as he died 38 *Hen. 3.* from these words, *Statuit Dominus Rex Alexander, Illustris Rex Scotia, de Concilio & assensu venerabilium patrum Episcoporum, Abbatum, Comitum, Baronum, ac proborum hominum suorum Scotia:* And then this Writer adds, and what the *Communitas Regni* in King *William's* Statutes, and the *Probi homines* in King *Alexander's* were, the League made between the *French* King, and the Crown of *Scotland*, *Anno 28 Ed. 1.* clearly shews, and from a Roll in the Tower of *London* of the same date, sayes, it was ratified and confirmed in their Parliament, *per Johannem de Balliolo* then King, *ac Praelatos & Nobiles, & Universitates, & Communitates Civitatum, & Villarum dicti Regni Scotia;* and the constant practice ever since hath been, that the Cities and Burghs have sent their Proxies or Representatives to the Parliaments of that Kingdom.

The meaning
of *Communitas
Regni & probi
homines* in *Scot-*
land.
Stat. Gulielm.
R. fol. 1.

This being what he hath said concerning *Scotland*, I shall instruct him out of his own Author Sir *John Skene*, and other printed Acts of Parliament and Statutes of *Scotland*, and teach him what is meant by the words *Communitas Regni, & probi homines sui:* The Title to the Statutes of King *William* called *Leo* runs thus; *Statuta sive Assisa Regis Willielmi, Regis Scotia, facta apud Perth, coram Episcopis, Abbatibus,*

A *bus, Baronibus, & Aliis probis Hominibus terræ suæ. The Statutes or Assizes of William King of Scotland, made at Perth, before the Bishops, Abbots, Barons, and other Good men of his Land. Rex Willielmus Statuit apud Sconam per commune concilium Regni sui, Anno Dom. 1209. Rex Willielmus Statuit apud Sconam de communi concilio & Deliberatione Prelatorum, Comitum, Baronum, ac Libere-tenentium, quod Ecclesia Scoticana, & Sancta Religio, & Universus Clerus, in suis Juribus, libertatibus & Privilegiis omaibus, manu teneatur in quiete, pace, & semper sub protectione Regia.*

Ibid. fol. 6. c. 9.
Ibid. f. 5 c. 32.

King William ordained at Scone by the Common-Council, and Deliberation of the Prelates, Earls, Barons and Free-holders, that Holy Scottish Church, and Holy Religion, and the whole Clergy, should be maintained in all their Rights, Liberties, and Priviledges, in Quiet and Peace, always under the Kings Protection.

B *Item, Statuit quod Comites, Barones & Libere-tenentes Regni, conservent pacem in servis suis; & quod vivant, ut Domini, de terris & redditibus & firmis suis; & non ut Husbandi, non ut Pastores, Devastantes Dominia sua, & Patriam, cum multitudine Ovium & Bestiarum, Penuriam, Paupertatem & Destructionem in Populo Dei inducentes. Also the King ordains, That the Earls, Barons, and Free-holders, do keep Peace and Justice amongst their Servants or Tenents, and that they live as Lords upon their Lands, Rents, and Farms; and not as Husbands and Plough-men, not as Shepheards, wasting their Demeasns or Lands, and the Country, with great numbers of Sheep and Beasts, causing Penury, Poverty, and Destruction amongst the People of God. Here we see the Free-holders were Lords of Mannors at least, and not ordinary People.*

Ibid. 433.

C *Anno Gratie 1214. Apud Sconam, Alexander Dei Gratia Rex Scottorum, communi concilio comitum suorum, pro utilitate Patrie decrevit, quod omnes Rustici in eisdem locis & villis, in quibus præterito anno fuerunt; hoc anno Agriculturam exerceant, &c. In the year of Grace 1214. Alexander King of Scots Decreed at Scone by the Council of his Earls, that all Rusticks or Ploughmen, that left any Place or Village, should the next year Till or Fallow the Ground there, &c. Præterea constituit Rex & Principes, ut agrestes, qui amplius quam quatuor vaccas habent, ad querendum victum sibi & suis, ad sustentationem vite, terras sub Dominis suis accipiant, & arent & seminent.*

D *Furthermore the King and Princes ordain, that Country or Fieldmen, or perhaps Highlanders which have four Cows for their Livelihood, and the support of them and theirs, shall take Lands under their Lords, and Plough and Sow them.*

Stat Alex. 2.
fol. 21. n. 1.

Ibid. n. 2.

E *Item, Statuit Dominus Rex Alexander apud Strivelin coram magnatibus suis, tam viris Ecclesiasticis quam aliis. Quod de cætero, &c. King Alexander ordained at Sterling before his Great men, as well Ecclesiasticks as others: That from henceforward, &c. Statuit Rex per consilium, & assensum totius communitatis suæ, Quod nullus Episcopus, Abbas, Clericus, Comes, Baro, vel aliquis alius de Regno Scotiæ, &c. The King ordains, by the Counsell and assent of his whole Community; that no Bishop, Abbat, Clerk, Earl, Baron, or any other of the Kingdom of Scotland, &c.*

Ibid. c. 3.

Ibid. c. 4.

F *Statutum est quod nec Episcopi, nec Abbates, nec Comites, nec aliqui Libere-tenentes, tenebunt curias suas, nisi Vice-comes Regis vel servientes*

Ibid. c. 14.

Vice-comitis ibidem fuerunt, &c. It is ordained, that neither Bishops, nor Abbats, nor Earls, nor any Free-holders, shall keep their Courts, unless the Kings Sheriff, or his Serjeants were there, &c. This again shews us, that the Free-holders were at least Lords of Mannors.

Of what Persons the Parliaments in Scotland do consist.

Now we, to evince clearly what the *Communitas*, *Probi Homines*, and *Libere-tenentes* were, and of what Persons the Parliament in Scotland under these various Appellations did consist, I shall produce the Title of a Parliament holden the Thirteenth year of Robert the First, who began his Reign *A. D.* 1306. the 31th of our Edward the First.

A

Statuta Roberti 1. fol. 29.

In Dei Nomine Amen. Robertus Dei Gratia Rex Scotorum.

Anno Regni sui Decimo tertio Die Dominica proxima cum continuatione Dierum post festum Sancti Andreæ Apostoli, subsequentium; Residens apud Sconam, in plano Parlamento suo, tento ibidem; Habitoq; solenni Tractatu, cum Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis Magnatibus, de Communitate totius Regis ibidem Congregatis, super variis & arduis negotiis, ipsum & Regnum suum tangentibus, atque futuro tangere valentibus: Ad Honorem Dei, & Sanctæ Matris Ecclesiæ, & ad Emendationem terræ suæ, Tutitionem populi, & ad pacem terræ suæ manu-tenendum, & affirmandam. De communi consilio, & expresso consensu, omnium Prelatorum, & Libere-tenentium Prædictorum ac totius Communitatis Prædictæ; ordinavit, condidit, & stabilivit statuta infra scripta, ab omnibus per Totum Regnum suum, perpetuo, & inviolabiliter observanda.

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The Community of the Kingdom of Scotland.

In the Name of God Amen: Robert by the Grace of God King of Scots, in the 13th year of his Reign, upon Sunday next after the Feast of St. Andrew the Apostle, with Continuation of the following days. Residing at Scone, in his plain Parliament (so the Scots render it) there holden. Having had solemn Treaty with the Bishops, Abbats, Priors, Earls, Barons, and other great men of the Community of the whole Kingdom there met together. Upon sundry and difficult Matters, touching himself and his Kingdom, and such as for the future might concern them: To the Honor of God, and Holy Mother Church, and the mending of his Land, the Safety of the People, and to maintain Peace by Common Council, and express consent of all the Prelates and Free-holders aforesaid, and of the whole Community aforesaid, hath ordained and established the under written Statutes, to be perpetually and inviolably observed by all People through his whole Kingdom.

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Statut. Rob. Tertii, fol. 63.

The Community of Scotland were Tenents in Capite.

And further, to shew that all these were Tenents in Capite, I shall add another Title of a Parliament in the Time of Robert the Third, who began to Reign *A. D.* 1390. in the Tenth of our Richard the Second.

Parliamentum Domini nostri Roberti Tertii Scotorum Regis illustrissimi, Tentam apud Sconam die Lune, vicesimo primo Februarii, Anno Gratia 1400. Regni sui undecimo, cum continuatione Dierum subsequentium: Sumonitis & ibidem vocatis, more solito, Episcopis, Prioribus, Ducibus, Comitibus, Baronibus, Libere-tenentibus, & Burgensibus, Qui de Domino nostro Rege Tenent in Capite.

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The Parliament of our Lord Robert the Third, the most Illustrious King of Scots, held at Scone on Monday the twenty first of February, 1400. and in the Eleventh of his Reign, with Continuation of the subsequent days, the Bishops, Priors, Dukes, Earls, Barons, Free-holders,

holders, and Burgeses, which hold of our Lord the King in Chief, being called, and summoned thither, according to usual Custom.

Tenents in Capite, the constituent parts of the Parliament of Scotland.

This Gentleman hath hunted quite through this Book, to find a scrap or two, he thought might, by the sound of the words, serve his purpose, and willfully overlooked what I have here cited. (If he hath patience) the Reader may pause a while, and admire his Honesty, Integrity, Ingenuity, Sagacity, &c.

Having thus shewn the ancient Constitution of the Scottish Parliaments, for the Readers satisfaction, I shall further shew when, and how it was altered.

In the seventh Parliament of King James the First, held at Perth, A. D. 1420. there was a Law made, that small Barons, and Freeholders, needis not to come to Parliamentes. The Tenor whereof is, The King with consent of the haill Council, generally hes Statute and ordained, That the small Barronnes, and Free Tenentes, neid not cum to Parliamentes nor general Councils, swa that of ilk Schirefdome there be send, chosen at the head Court of the Schirefdome, twa or maa wise men after the largeness of the Schirefdome, out tane the Schirefdomes of Clakmannan and Kinross, of the quhilkis ane be send of ilk ane of them, the Quhilk fall be called Commissares of the Schire, and be their Commissares of all the Schires fall be chosen ane wise man, and expert called the Common-Speaker of the Parliament; The Quhilk fall prove all and fundry needis and causes pertaining to the Commons in the Parliament or general Council; The Quhilkis Commissares fall have full and haill Power of all the Laif of the Schirefdome, under the Witnessing of the Schireffs Seale, with the Seals of divers Barronnes of the Schire, to hear, treat, and finally to determine all Causes to be proposed in Council or Parliament: The Quhilkis Commissares and Speakers fall have Costage of them of Ilk-Schire, that awe Compeirance in Parliament or Council, and of their Rents, ilk pound fall be utheris fallow to the Contribution of the said Costes. All Bishoppes, Abbots, Priors, Dukes, Erles, Lordes of Parliament, and Ban-rentes, The Quhilkis the King will be received and summoned to Council and Parliament, be his Special Precept. The Title of this Parliament runs thus.

The Laws and Acts of Parliament of Scotland, f. 17. n. 102. When and how the Constitution of the Scottish Parliament was altered.

In Parlamento septimo, vel Concilio generali illustrissimi principis Domini Jacobi, Dei Gratia Regis Scotiae, Tenta apud Perth, primo Die Mensis Martii, A. D. 1427. & Regni Domini Regis 23 cum continuatione Dierum & Temporum, summonitis & vocatis more debito, & solito, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & Libere-tenentibus, Qui de Domino nostro Rege tenent in Capite, & de quolibet Burgo certis Burgensibus, comparentibus omnibus illis, qui debuerunt, voluerunt, & potuerunt commode interesse, quibusdam vero absentibus, quorum aliqui legitime excusati fuerunt, aliis se contumaciter absentantibus, quorum Nomina patent in Rotulis Senarum. Quorum quilibet adjudicatus fuit in amerciamento decem librarum, ob suam contumaciam. 'Tis most clear from this, and the other Titles of Parliaments, that the Commons in Scotland were only the Kings Tenents in Capite, and are so at this day, according to the Confirmation of this Act of Parliament, in the Eleventh Parliament of King James the Sixth, holden at Edinburgh July 29. 1587.

Ibidem.

Of what Persons the Parliaments in Scotland do consist.

Statuta Roberti 1. fol. 29.

The Community of the Kingdom of Scotland.

Statut. Rob. Tertii, fol. 63.

The Community of Scotland were Tenants in Capite.

Vice-comitis ibidem fuerunt, &c. It is ordained, that neither Bishops, nor Abbats, nor Earls, nor any Free-holders, shall keep their Courts, unless the Kings Sheriff, or his Serjeants were there, &c. This again shews us, that the Free-holders were at least Lords of Mannors.

Now we, to evince clearly what the *Communitas, Probi Homines, and Libere-tenentes* were, and of what Persons the Parliament in Scotland under these various Appellations did consist, I shall produce the Title of a Parliament holden the Thirteenth year of Robert the First, who began his Reign *A. D.* 1306. the 31th of our Edward the First.

In Dei Nomine Amen. Robertus Dei Gratia Rex Scotorum.

Anno Regni sui Decimo tertio Die Dominica proxima cum continuatione Dierum post festum Sancti Andreæ Apostoli, subsequentium; Residens apud Sconam, in plano Parlamento suo, tento ibidem; Habitog; solenni Tractatu, cum Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis Magnatibus, de Communitate totius Regis ibidem Congregatis, super variis & arduis negotiis, ipsum & Regnum suum tangentibus, atque futuro tangere valentibus: Ad Honorem Dei, & Sanctæ Matris Ecclesiæ, & ad Emendationem terræ suæ, Tutitionem populi, & ad pacem terræ suæ manu-tenendum, & affirmandam. De communi consilio, & expresso consensu, omnium Prelatorum, & Libere-tenentium, & Predicatorum ac totius Communitatis Predicæ; ordinavit, condidit, & stabilivit statuta infra scripta, ab omnibus per Totum Regnum suum, perpetuo, & inviolabiliter observanda.

In the Name of God Amen: Robert by the Grace of God King of Scots, in the 13th year of his Reign, upon Sunday next after the Feast of St. Andrew the Apostle, with Continuation of the following days. Residing at Scone, in his plain Parliament (so the Scots render it) there holden. Having had solemn Treaty with the Bishops, Abbats, Priors, Earls, Barons, and other great men of the Community of the whole Kingdom there met together. Upon sundry and difficult Matters, touching himself and his Kingdom, and such as for the future might concern them: To the Honor of God, and Holy Mother Church, and the mending of his Land, the Safety of the People, and to maintain Peace by Common Council, and express consent of all the Prelates and Free-holders afore said, and of the whole Community afore said, hath ordained and established the under written Statutes, to be perpetually and inviolably observed by all People through his whole Kingdom.

And further, to shew that all these were Tenants in Capite, I shall add another Title of a Parliament in the Time of Robert the Third, who began to Reign *A. D.* 1390. in the Tenth of our Richard the Second.

Parliamentum Domini nostri Roberti Tertii Scotorum Regis illustrissimi, Tentam apud Sconam die Luna, vicesimo primo Februarii, Anno Gratia 1400. Regni sui undecimo, cum continuatione Dierum subsequentium: Sumonitis & ibidem vocatis, more solito, Episcopis, Prioribus, Ducibus, Comitibus, Baronibus, Libere-tenentibus, & Burgensibus, Qui de Domino nostro Rege Tenent in Capite.

The Parliament of our Lord Robert the Third, the most Illustrious King of Scots, held at Scone on Monday the twenty first of February, 1400. and in the Eleventh of his Reign, with Continuation of the subsequent days, the Bishops, Priors, Dukes, Earls, Barons, Free-holders,

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holders, and Burgesſes, which hold of our Lord the King in Chief, being called, and ſummoned thither, according to uſual Cuſtom.

Tenents in Capite, the conſtituent parts of the Parliament of Scotland.

A This Gentleman hath hunted quite through this Book, to find a ſcrap or two, he thought might, by the ſound of the words, ſerve his purpoſe, and willfully overlooked what I have here cited. (If he hath patience) the Reader may pauſe a while, and admire his Hon-
neſty, Integrity, Ingenuity, Sagacity, &c.

Having thus ſhewn the ancient Conſtitution of the *Scottiſh* Parliaments, for the Readers ſatisfaction, I ſhall further ſhew when, and how it was altered.

B In the ſeventh Parliament of King *James* the Firſt, held at *Perth*, A. D. 1420. there was a Law made, that ſmall Barons, and Freeholders, needis not to come to Parliaments. The Tenor whereof is, The King with conſent of the haill Council, generally hes Statute and ordained, That the ſmall *Barronnes*, and *Free Tenentes*, neid not cum to *Parliaments* nor *general Councils*, ſwa that of ilk *Schirefdome* there be ſend, choſen at the head Court of the *Schirefdome*, twa or maa wiſe men after the *largeneſs* of the *Schirefdome*, out tane the *Schirefdomes* of *Clakmannan* and *Kinroſſe*, of the quhilkis ane be ſend of ilk ane of them, the Quhilk ſall be called *Commiſſares* of the *Schire*, and be their
C *Commiſſares* of all the *Schires* ſall be choſen ane wiſe man, and expert called the *Common-Speaker* of the *Parliament*; The Quhilk ſall prove all and fundry needis and cauſes pertaining to the Commons in the Parliament or general Council; The Quhilkis *Commiſſares* ſall have full and haill Power of all the *Laif* of the *Schirefdom*, under the *Witneſſing* of the *Schireffs Seale*, with the *Seals* of *divers Barronnes* of the *Schire*, to hear, treat, and finally to determine all Cauſes to be propoſed in Council or Parliament: The Quhilkis *Commiſſares* and *Speakers*
D ſall have *Coſtage* of them of *Ilk-Schire*, that awe *Compeirance* in *Parliament* or *Council*, and of their Rents, ilk pound ſall be utheris fallow to the Contribution of the ſaid Coſtes. All *Biſhoppes*, *Abbots*, *Priors*, *Dukes*, *Erles*, *Lordes* of *Parliament*, and *Ban-rentes*, The Quhilkis the King will be received and ſummoned to Council and Parliament, be his *Special Precept*. The Title of this Parliament runs thus.

The Laws and Acts of Parliament of Scotland, f. 17. n. 102. When and how the Conſtitution of the *Scottiſh* Parliament was altered.

E In Parlamento ſeptimo, vel Concilio generali illuſtriſſimi principis Domini Jacobi, Dei Gratia Regis Scotia, Tenta apud Perth, primo Die Menſis Martii, A. D. 1427. & Regni Domini Regis 23 cum continuatione Dierum & Temporum, ſummonitis & vocatis more debito, & ſolito, *Episcopis*, *Abbatibus*, *Prioribus*, *Comitibus*, *Baronibus*, & *Libere-tenentibus*, Qui de Domino noſtro Rege tenent in Capite, & de quolibet Burgo certis Burgensibus, comparentibus omnibus illis, qui debuerunt, voluerunt, & potuerunt commode intereſſe, quibuſdam vero
F *abſentibus*, quorum aliqui legitime excuſati fuerunt, aliis ſe contumaciter abſentantibus, quorum Nomina patent in Rotulis Senarum. Quorum quilibet adjudicatus fuit in amerciamento decem librarum, ob ſuam contumaciam. 'Tis moſt clear from this, and the other Titles of Parliaments, that the Commons in Scotland were only the Kings Tenents in Capite, and are ſo at this day, according to the Confirmation of this Act of Parliament, in the Eleventh Parliament of King *James* the Sixth, holden at *Edinburgh* July 29. 1587.

Ibidem.

Ibid. f. 290.
n. 1 3.

* Which is
now Ten
pounds Ster-
ling per annum
real value.
Present State
of Scotland,
p. 77.

Present State
of Scotland,
p. 77, 78.
The Burghs
make the
third Estate
in Scotland.
Ibid. p. 127.
131.
The Kings
Burghs only
send Commis-
sioners to Par-
liament in
Scotland.

Our Sovereine Lorde, remembringe of ane gude and lovable *act* maid by his Hienesse progenitour King *James* the First, of worthie Memorie, in the *Parliament* halden at *Perth*, the First day of *March*, the Zeire of God, anethousand, four hundreth, twenty seven Zeires, anent the *Commissioners* of small *Baronnes* in Parliament, That his Majestie and saidis Estaites wald ratify and Appreeve the same, to have full Effect, and to be put to Execution in time comminge: and of new, Statute, and Ordain for the Mair full Explanation of the same Act, and certain Execution thereof; That precepts suld be directed forth of the *Chancellarie*, to ane *Barron* of ilk *Schire* first, to Conveene the *Free-holders* within the same *Schire*, for chusing of the *Commissioners*, as is contened in the Act. Quhilkis *Commissioners*, beinge anis choosen and sent to Parliament, the precepts of Parliament, for conveening of *Free-holders* to the Effect foresaid, to be directed to the last *Commissioners* of ilk *Schire*, quhilkis fall cause chiefe twa wise Men, beinge the *Kings Free-Holders*, Resident *Indwellers* of the *Schire*, of gude *Rent*, and *Weill Esteemed*, as *Commissioners* of the same *Schire*, to have power and to be authorized, as the Act proportis, under the *Commissioners* Seale, in place of the *Schireffes*; And that all *Free-Holders* of the *King*, under the Degree of *Prelats*, and *Lords* of *Parliament*, be warned be proclamation, to be present at the choosung of the saidis *Commissioners*: and nane to have *Voit* in their Election, bot *sik as hes* * *fourtie Shilling Land* in *free-tennendrie*, halden of the *King*, and hes their actual dwelling and residence within the same *Schire*, &c. And that the *Compeirance* of the saidis *Commissioners* of the *Schires* in *Parliaments* or general Councils, *shall Relieve* the *hail remanent small Barrones*, and *Free-Holders* of the *Schires*, of their *Suites*, and *presence*, *aucht in saids Parliaments*. By this last passage, and the Title to the seventh Parliament of King *James* the First, it seems, that the small Barons, Free-holders, or Tenents in Capite, thought it a burthen to them to come to, and remain in Parliaments, and that they were not willing to undergo that trouble, and therefore in all probability they petitioned they might appear and be represented by *Commissioners*.

As to the Burroughs they make the third Estate, and do send but one *Commissioner* or *Burgess* (except the City of *Edinburgh* which sends two) which are chosen by the Common Council of the Towns. There are in *Scotland* three sorts of Burghs, that is to say, *Royal Burghs*, *Burghs of Regality*, and *Burghs of Barony*: *The Royal Burroughs*, the *Burgi Dominici Regis*, or *Qui de Rege tenent in Capite*, only send *Commissioners* to *Parliament*, and are in Number Sixty.

If I may have the liberty to urge what hath been said concerning the Constituent parts of the *Scottish* Parliaments, it seems to me that from the great affinity there was, and is, between ours and theirs, to be certain, that our and their *Comunitas Regni*, was the same, that is, they were the *small Barons*, and *Tenents in Capite*; and that it is highly probable, that when this *Comunitas* left of coming Personally to Parliament, and came by Representation, that they were at first represented by two of their own number, sent from every County, and also that it is highly probable that originally the *Burghs* that sent Members to Parliament, were *Burgi Dominici*, the *Kings* or *Royal Burghs*, such as ever did, and do at this day in *Scotland* only send *Burgesses* to Parliament.

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The Third Levelling Observation, by which he insinuates a parity of all Men, and makes Lords Commons, and Commons Lords; I shall Examine, and shew the Vanity of it.

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From the various acceptation of the word *Baro*, and an end or two of *History* which he never understood, he concludes that under the phrase of *Baronagium Anglie*, both *Lords* and *Commons* were comprehended. The various significations of the word *Baro*, he grounds upon the various meaning of the word *Aldermannus*, and says, as there were *Aldermanni Regis*, *Aldermanni Comitatus*, *Civitatis*, *Burgi*, *Castelli*, *Hundredi*, five *Wapentachii*, & *Novemdecimorum*; so there came instead of them, when that name was changed, or worn out, *Barones Regis*, *Barones Comitatus*, *Barones Civitatis*, *Barones Burgorum*, *Barones Castellorum*, *Barones Hundredorum* five *Wapentachiorum*.

But this only is a fancy of his own, for of all these *Barons* he hath reckoned up, he cannot shew half of them in any Author I ever saw, nor can he shew any of them taken in the same sense, that *Aldermen* were; for these were always *Officers* and *Magistrates*; So Sir Henry Spelman, *Quo nomine Magistratus semper indicatur*, by which name of *Alderman*, a *Magistrate* was always signified. And in the same Column, *Principes igitur & Rectores Provinciarum*, *Comites*, *Præsides*, *Senatores*, *Tribunos generali nomine alias atque alias Aldermannos appellabant*. They called *Princes*, *Governors of Provinces*, *Earls*, *Presidents*, *Senators*, *Tribunes*, by the general name of *Aldermen*. So the Kings *Alderman* was the Kings *Justiciary*, the *Alderman* of the *County* was the *High Sheriff*, or other *Great Minister of Justice*. The *Aldermannus civitatis*, *Burgi*, seu *Castelli*, was the *Mayor*, or *Baylis* of the *City*, or *Town*, and the *Alderman* of the *Castle* was the *Castellan*, or *Constable*, or *Governor* of the *Castle*; The *Alderman* of the *Hundred* was the *Centenary*, *Hundredary*, or *Chief Magistrate* that had the *Care* of the *Hundred*. But the *Barones Regis* as such, were not *Officers* or *Magistrates*, they were not only *Great Barons*, that possessed *Great Estates*, and held of the *King* by *Military Service* in *Chief*; So the *Barones Comitatus* were not *Magistrates*, but only *Feudal Barons*, and also *Milites* and *Freeholders*, that were *Inhabitants* and *Landholders* in the *County*. Nor were the *Barones de London*, *Eboraco*, &c. *Magistrates* of the *Cities*, &c. but only *cives*, & *homines de London*, &c. *Citizens* and *Inhabitants* of *London* and *York*, and other *Barons* then these, and such as these, he can find none: Nor can he ever shew that *Baro* was a Name of *Office*, and generally appropriated to the *Magistracy*, as *Aldermannus* was.

Page 108.

Page 109.

Ibid.

Alderman was a word signifying an Office. *Glossar.* fol. 42. col. 2. l. 20. Line 33. Duke, Princes, Earls, which were the Knights Great Officers, were called Aldermen. *Seld. Tit. hon.* fol. 505, & 509. *Spel. Glossar.* fol. 25. col. 2. Ibidem, fol. 26. col. 1. 2. Ibidem, fol. 69. col. 1. *Baro*, not a Word of Office. Ibidem, fol. 70. col. 2. The Barons of the Exchequer were originally the great Barons of the Kingdom, and thence the Name.

From

The Lords Court was *Curia Baronum*, Court of Freeholders, not *Baronis*, and sometimes *Curia Milium*. Ibid m. fol. 68. col. 1.

Tit. Hon. fol. 575. p. 110.

* The words of Selden upon Eadmer, are upon the word *Barones*. *Vocabulum nempe alia notatione usurpata quam vulgo, neque eos duntaxat ut hodie significare quibus peculiaris Ordinum Comitum locus est.*

That is, it signifies all Tenants in Capite, as he here explains himself, and not ordinary Men, as our Author would have it.

Tit. Hon. fol. 570.

Britan fol. 120.

* Our Author hath left out the word *Superiores*, and cites the place thus; *Nomine Baronagii Anglie Omnes quodammodo regni Ordines continentur*, p. 111. and cites no more.

P. III.

From whence it is clear, he understands not the true *acceptation* of these *two words*; but suppose he did, Will he conclude because the word **Barones** signified sometimes the **Great Barons**, sometimes the **Milities**, and **Free-Feudal-Tenants**, that the **Commons** were part of the **Baronage** of *England*, and comprehended in those words? He may as well say, that all Men of *England* were part of the **Baronage**, because **Baro** signifies a *Man*. Or that every *Cobler*, *Chimney-sweeper*, or inconsiderable Tradesman in **London** are part of the **Gentry** of *England*, because they take upon them, and are called **Hatters**, and **Millresses**. Sure Sir Henry *Spelman* understood the **Baronage** of *England* to be another thing, when he said *Barones Classes supra omnes plebeias elati inter Pares regni numerantur*. The **Barons** being raised above all *Orders* of the **Plebeians**, are numbred amongst the **Peers** of the *Kingdom*. And the great *Selden* tells us, what he meant in his * *Notes upon Eadmer*, and the very place by our Author cited. The Phrases, saith he, of *Tenentes per Baroniam & Servitia Militaria & Milites & Barones Tenentes in Capite de Rege*, are used for the same Persons (*Baro*, also & *qui de Rege tenent in Capite*, are so used) in two *Laws*, the one of *William the First*, the other of *Henry the Second*, touching *Excommunication*, as is noted upon *Eadmerus*, p. 168. & seq. These are the very words of *Learned Selden*, and therefore in this place of his *Notes upon Eadmer*, which is brought to confirm this *Gentleman's* conceit, he did not mean the **Commons**, or any Ordinary Persons, but the *Tenents in Capite*, or **Peers**. And in another place, he says, the Honorary Title of **Barones**, and *pares Baronum* are equally both *Parliamentary*, and may signify the whole **Baronage**.

The *Learned Camden* likewise a little after the words he hath cited out of him, speaks thus. *In Chartis & Historiis istius seculi omnes fere Nobiles dicantur Barones, plenaque Honoris illa appellatio, sane tunc erat, & nomine Baronagii Anglie, omnes * Superiores quodammodo Regni Ordines, Scilicet Duces, Marchiones, Comites, & Barones, continebantur, sed ad summum honorem provenit, ex quo Rex Hen. tertius ex tantâ multitudine, qua seditiosa & Turbulenta fuit, Optimos quosque rescripto ad Comitum Parliamentaria evocaverit.* In the *Charts* or *Charters*, and *Histories* of that Age (toward the latter end of *Henry the Third*) almost all *Noblemen* were called **Barons**, and that appellation was then full of *Honor*, and in the Name of the **Baronage** of *England*, as it were all the *Superior Orders* of the *Kingdom* (that is to say) *Dukes*, *Marquesses* (meaning such as had those Titles afterwards) *Earls* and *Barons* were contained. But it arrived at the greatest height of an honorary Title since. *Henry the Third*, out of so great a *Multitude*, which was *Seditious* and *Turbulent*, called the best and chiefest of them only by *Writ* to *Parliament*.

These are the most truly *Learned Antiquaries*, whose *Authority* our *Author* says is such, that it would be a *presumption* in him to go about to add any thing. Yet he accounts it no *presumption* to pick here, and there a *shred* out of them, which sounds like something he fancies, and to urge it in favor of his own *Whimsy*, against the declared *Minds* and *Intentions* of those *Authors*. And this is the excellency, and perfection, and common practice of this *Gentleman*, to bring

bring *Fragments, Phrases and Words* out of *Records and Histories*, which sound like, or seem to countenance his *Inventions*, contrary to the true meaning of those *Records*, and right sense of *Historians*. As I have already in many instances shewed, and do desire the Reader with Attention, to take notice of these most notable ones that follow.

A In the 29 of *Henry the Third*, there were generally great Complaints of the *Papal Exactions*, and the *King* made sensible of it, upon inquiry found, that the *Pope* annually received from *England* 60000 Marks. *Tunc Dominus Rex cepit detestari insatiabilem Romanæ Curie cupiditatem, & totius Regni, inò etiam & Ecclesiæ per eam factas injurias occupationes illicitasque rapinas; compositâ igitur per Regni Univerſitatem Eleganti Epistolâ in quâ extortiones papales minus execrabiles, & exactiones multiformes Legatorum ejus, & quorundam clericorum potestate inauditâ fungentium continebantur. Cum quâ viri Nobiles ac discreti ad Concilium destinantur gravem super his & præcipue super exactione Tributi in quod nunquam consensit regni Univerſitas coram concilio querimoniam reposituri. Electi sunt igitur & ad hoc nomine totius Univerſitatis Regni Angliæ ad Concilium Lugdunense Miſſi, Comes Rogerus Bigod, Johannes filius Galfredi, Willielmus de Cantelupo, Philippus Basset, Radulphus filius Nicholai, & Magister Willielmus Poweric Clericus.*

Anno Dom.
1245.
Paris, fol.
658. n. 40. 50.
& 659. l. 1.
at this day
480000 l.

C Then the *King* began to detest the insatiable Avarice of the *Court of Rome*, the *Injurious Incroachments*, and *Unlawful Rapines* made by it upon the whole *Kingdom*, and the *Church* also. Therefore there was an *Elegant Epistle* composed by the *University of the Kingdom*, which contained the execrable *Papal Extortions*, and many *Exactions* of his *Legats*, and of certain *Priests* executing unheard of Power. With which *Epistle*, *Noble and Discreet Men* were sent to the *Council*, to make Complaint of these things, and especially the *Exaction of Tribute*, unto which the *Univerſity* of the *Kingdom* never gave their consent; there were therefore chosen, and for that purpose sent in the Name of the *University of England* to the *Council of Lyons*, *Earl Roger Bigod*, *John Fitz-Geofry*, *William de Cantelupe*, *Philip Basset*, *Ralph Fitz-Nicholas*, and *Mr. William Poweric Clerk*. And our Author adds *Milites*, after the last four Lay-men, as he finds it in *Mat. of Westminster*, by which I suppose he thinks he hath an advantage, because he thereby makes it appear, that the *Milites* were part of the *Univerſitas Regni Angliæ*.

Council of
Lyons.

Ibid. n. 10.

Five Commis-
sioners sent
to the Coun-
cil of *Lyons*.
Mr. William
Powerick was
a Lawyer.

F I do not deny it, for the great *Milites* were often stiled *Barons*, and *Barons Milites*. Nam *Miles* (saith *Sir Henry Spelman*) quem Baronem vocabant non à Militari Cingulo (quo equites creabantur) sed à Militari feodo quo alias possessor & libere Tenens nuncupatus est, nomen sumpsit. For the name of *Miles* was not from the *Military Girdle*, or *Cincture*, by which *Knights* were created, but from the *Military Fee* which the *Miles* enjoyed, from whence he was sometimes called a *Free-tenant*; Such as had *Lands* given them for, or such as held *Lands* by *Military Service*, and did *Homage* and *Fealty* to those, of whom they held their *Lands*. And in this sense *Mat. Paris* calls all the *Temporal Nobility* *Milites*; When in the *Parliament 37 of Henry the Third*, he says, à *Militibus concessum est*

P. 112.

Fol. 31. n.
30.

Glossar. fol.
72. col. 1.
See the same
derivation of
Miles. *Cambd.*
Brit. fol. 123.
The name of
Miles from
the *Military*
Fee.

Fol. 866. n.
20.
The Tempo-
ral Nobility,
all called *Mi-*
lites.

est scutagium illo Anno ad Scutum tres Marce; at which time the Clergy had given the *tenth part* of their Revenue for three years. A brief Account of these four Persons, what they were, will inform us, that Barons and Great Men, were, in Historians, called simply *Milites*, in the Notion Sir Henry Spelman hath given of the word.

Dugd. Baro-
nige, Tom. 1.
fol. 706. Col.
2. fol. 707.
col. 1.

1. John Fitz-Geofry was Son and Heir to Geofry Fitz Piers Earl of Essex, and Father to John Fitz-Geofry, and Grandfather to John Fitz-John the Great Rebel, that joyned himself with Simon Montfort.

A

Ibid. fol. 732.
col. 2.

2. William de Cantelupe was a Baron, or Great Tenent in Capite, paid *Ayd* this very year towards the Marriage of the Kings Eldest Daughter, for 27 Knights Fees, and three parts.

B

Ibid. fol. 384.
col. 1. 2.

3. Philip Basset was at this time a great Baron, and made Justice of England, 45 Hen. III.

Cl. 24 Hen. 3.
m. 10. Dors.

4. Ralph Fitz-Nicholas was at least a Great Tenent in Capite, and Father to Robert Fitz-Nicholas, who, among other Great Tenents in Capite, was summoned to appear at Chester, on Monday before the Feast of St. John Baptist, 42 Hen. 3. to March against Leuallin Prince of Wales: He was a Baron, vide Mat. Paris, fol. 590. n. 40.

C

These were the four Barons that Mat. of Westminster calls *Milites*, and our Author would have common persons, but by what right let the Reader Judge.

Mat. Par. fol.
658. n. 40.

Ibid. 29 Hen.
3. 1245.
Fulco-Fitz-
Warini.

Ibid. 659. n.
10.

* He was
one of the
Great Barons
Marchers to-
wards Wales,
Dugd. Bar.
Tom. 1. fol.
444. col. 2.
Salutation of
the Popes Le-
gat.

Paru ut supra.
n. 20.
The University
of Armed
Men.

By what precedes the Account of the Election of this Earl, and four Barons with their Secretary Poweric, by the University of the Kingdom to go to, or represent them at the Council of Lyons as Commissioners, it appears they were elected in Whitsun-week, and upon the 30th day of June next following, at a full *Corneament* intended to have been held or exploited at Luton and Dunstable; which was forbidden by the King. * Fulco Fitz-Martin was sent *ex parte Universitatis Regni ad Magistrum Martinum Papae Clericum*, &c. on behalf of the University of England to Master Martin the Popes Clerk (who was his Legat and Instrument of the great Exactions aforesaid) which Fulco beholding him with a stern countenance, bad him immediately to go out of England; to whom Master Martin said, Who commands me to do this? Is it from your self? To whom Fulke answered, *hoc tibi per me mandat Armatozum, qui nuper apud Luitoniam & Dunstapliam apparuerunt Universitas*. The University of Military Men, that lately appeared at Luton and Dunstable by me do command you to do this; and bad him again be gone, or he and his Followers would in three days be cut in pieces. Master Martin much terrified and affrighted at this Salutation, went immediately to the King, and told him what he had heard, and asked him whether it was done by his Authority. The King told him he was not the Author of any such thing, But my Barons (saith he) can scarce contain themselves from an Insurrection against me, for that I have so long suffered your Depredations and Injuries in my Kingdom.

D

E

F

Ibid.

The

The Story makes it plain, who were the **Uniberſitas Regni**, to wit, the **Barons**, or the **Uniberſitas Armatozum**, the *Univerſity* of *Armed* or *Military men* convened to hold a full Torneament, who the *King* calls *his Barons*.

Note the Univerſity of the Kingdom were the Kings Barons.

A And who alſo the **Uniberſitas Regni** were that inſtructed their *Procurators* to declare in the *Council* of *Lyons* as aforeſaid, that they never conſented to the exaction of *Tribute* by the *Pope*; 'tis very plain from the complaint of **William Poweric** their *Procurator* or *Orator* at the *Council* of *Lyons* delivered in theſe words.

He was a Lawyer.

B *Aſſidentibus ibidem Anglicana Uniberſitatis Procuratoribus prænomi-*
natis, Magiſter Willielmus de Poweric eorum Procurator aſurgens
gravamina Regni Angliæ ex parte Uniberſitatis Angliæ proponens; con-
queſtus eſt graviter. Quod Tempore Belli per curiam Romanam ex-
ortum eſt tributum injurioſè in quod nunquam Patres Nobilium
Regni vel ipſi conſenſerunt, nec conſentiunt, neque in futurum conſen-
tient, unde ſibi petunt exhiberi juſtitiam cum Remedio. The *Procu-*
rators of the *Univerſity* of *England* beforenamed ſitting in the
C *Council*, Maſter *William Poweric* their *Procurator* ſtood up, and
propounded the grievances of the Kingdom of *England*, on the be-
half of the **Univerſity** of *England*, complaining grievouſly that in
the time of War there was a *Tribute* injurioſly impoſed on the
Kingdom by the *Court* of *Rome*, to which the * *Fathers* of the
Noblemen of the Kingdom, nor they themſelves never conſented,
nor do, or ever ſhall conſent, upon which they crave *Juſtice* with
remedy. To which complaint the *Pope* making no Answer, *Wil-*
liam Poweric thereupon produced an *Epistle* which declared the many
Extortions made in *England* by the *Roman Court*, thus directed.

Ibid. fol. 666.
n. 40.
A Secretary
to the other
four.

*The Univerſity of *Eng-*
land that ſent
theſe *Procu-*
rators, and
made this
complaint,
are called here
the Noblemen
of the King-
dom, that
craved Juſtice.

D *Reverendo in Chriſto Patri Innocentio Dei gratia ſummo Pontifici,*
Dignates & Uniberſitas Regni, &c. To the Reverend Father in
Chriſt, *Innocent* by the Grace of God *Pope*, the Great Men, and
Univerſity of *England*, &c. What this *Univerſity* was, that made
this complaint we have juſt now heard.

Ibid. n. 30.

E From this *Council* the *Pope* wrote to the *Biſhops* and *Patrons* of
Churches through *England*, and to the *King*, that they ſhould have
ſatisfaction in all their Grievances; yet not performing his promiſes,
medio *Quadrageſimæ* videlicet die quâ cantatur **Letare Jeruſalem,**
F *Edicto Regio convocata, convenit ad Parliamentum generaliſſimum*
totius Regni Anglicani totalis Nobilitas Londini, videlicet Prelato-
rum tam Abbatum & Priorum, quam Episcoporum, Comitum
quoque & Baronum ut de ſtatu regni jam vacillantis efficaciter, prout
exegit urgens neceſſitas contrectarent. In the middle of *Lent* (that
is to ſay) on the day on which the *Hymn*, *Letare Jeruſalem* was
uſually ſung, being called by the *Kings Writ*, there did meet at a
moſt general *Parliament* at *London*, the whole *Nobility* of the whole
Kingdom, that is to ſay of the *Prelats*, as well *Abbats* and *Priors*,
as *Biſhops*; and alſo of the *Earls* and *Barons*, that they might treat
effectually of the unconstant ſtate of the Kingdom, according to the
urgent neceſſity of it.

Ibid. 696. n.
10.

Ibid. l. 1.

A moſt gene-
ral *Parliament*
which conſiſt-
ed only of
Biſhops, *Ab-*
bats, *Priors*,
Earls, and *Bar-*
ons.

Ibid. 698. n. 40.
The King confers with the Bishops apart, and the Earls and Barons apart.

Ibid. 698. l. 40.
A. D. 1246. 30
Hen. 3.

Ibid.

Ibid. f. 99.
n. 20.

Ibid. n. 30.
Ibid. fol. 700.
n. 10.
Ibid. n. 50.

P. 114.

There were then very many more Earls than these eight here named.

* Paris ut supra, fol. 701.
n. 20, 30.
P. 114.
Our Author falsely applies History.

Constituent Members of that Parliament.

In this very **Parliament** the King confers with the **Bishops** by themselves, the **Earls**, and **Barons** by themselves, about this Business of the **Pope's** not keeping his Promises; and certainly if there had been then any **Commons** in this **Parliament** he would have also conferred with them about the same matter.

The *Historians* words are, *Convenientibus igitur ad Parliamentum memoratum totius regni Magnatibus, Die videlicet qua cantatur Letare Ierusalem, in primis aggressus est Dominus Rex ore proprio Episcopos per se, postea vero Comites & Barones, deinde autem Abbaes & Priores videlicet supra his pro quibus miserat Nuntios suos solempnes ad Concilium Lugdunense, &c.* A

The result of these Conferences was, that yet for the reverence due to the **Apostolick See**, they should again supplicate the **Pope** by Letters, to remove the intolerable grievances and importable yoke. B

And this they do according to the **Kings** separate Conferences with them. The **Bishops** write by themselves, the **Abbats** and **Priors** by themselves, and the **Earls**, **Barons**, &c. by themselves to the **Pope**; and if there had been any **Commons** as at this day, most certainly they would likewise have wrote to the **Pope**, as well as the other constituent parts of this **Parliament** did. C

Our Author very cunningly recites the Directions of the last Letter only of the **Earls** and **Barons**, &c. to the **Pope**, *Sanctissimo, &c. Devoti filii sui Comes Cornubiæ, Richardus S. de Monteforti Comes Legrecestrie, De Boun or Bohun Comes Herefordiæ & Essexiæ R. le Bigod Comes Northfolkiæ. R. Comes Gloverniæ & Hartfordiæ. R. Comes Wintoniæ. W. Comes Albamarliæ. H. Comes Oxoniensis, & alii totius Regni Angliæ Barones Proceres & Magnates, ac Nobiles Portum Maris Habitatores, nec non & Clerus & Populus Universus Salutem, &c.* D And takes no notice of the other Letters from the **Bishops**, or **Abbats** and **Priors**, or those of the **King**, one to the **Pope**, * another to the **Cardinals** upon the same subject. And then tells us, that *Mat. Paris* calls this a **Parliament**, truly citing the place of that Author, fol. 698. n. 40. and but these words only, *Convenientibus igitur ad Parliamentum totius Regni Magnatibus*, and applies them to the words above written, and would have the body of the people of **England** included in the **Magnates**. But if he had intended to have dealt candidly with his Readers, he should have let them know there were the **Magnates** particularized, and that they were the very **Bishops**, the very **Earls**, and **Barons**, the very **Abbats** and **Priors**, with whom the **King** had separate conference, who jointly agreed every **Order** of them, should (besides the **King**) write particularly to the **Pope** about their grievances, as we have said before. E

Nor were these **troup of words** here drawn up in this Letter to any other purpose than to make an impression upon the **Pope**, and make him sensible what a general dislike the **Nation** had of his exactions and incroachments, and to induce him to a compliance with their desires, the **Multitude** not being any ways parties, or privy to the writing of the Letter; for the clamour of the People was a great F

great Argument used in all these Letters to affect the Pope, how Ingrateful his impositions were to the Nation. But in this of the Temporal Barons more especially, who address themselves to the Pope by Petition, inforcing it by the Clamour of the people; *implo-
rantes etiam humiliter & devotè quatenus ob spem retributionis divinae,
votes clamantium post vos dignemini misericorditer exaudire, & grava-
minibus, injuriis & oppressiõibus Regno Angliæ, & Domino nostro
Regi multipliciter impositis, ac illatis, velitis salubre Remedium ad-
hibere, alioquin necesse est ut veniant Scandala clamore populi tam Do-
minum Regem quam nos intolerabiliter impellente.* That is, We hum-
bly and obsequiously implore, that for the hope of Divine Retribu-
tion, you would mercifully vouchsafe to hear the Petition of such
as cry after you, that you would apply a wholesome Remedy, to
the grievances, injuries, and oppressions, which are many ways im-
posed upon the Kingdom of England, and our Lord the King, other-
wise of necessity Scandals will come, by the clamour of the people
intolerably urging as well the Lord the King, as our selves.

The Clamour
of the people
used as an Ar-
gument to the
Pope, &c.
*Paris fol. 701.
n. 10.*

Ibid. n. 10.

The King in his Letters to the Pope about this matter, tells him, the clamour of the great Men, as well of the Clergy as Laity, was such as he could not indure to hear it, *verum Clamorem incompara-
bilem Magnatum Angliæ, tam Cleri quam Populi non possumus oban-
dire.*

And in his Letters to the Cardinals touching the same affair, he lets them know, that how great soever his affection was toward the Ro-
man Church, yet he could not by dissimulation pass by the clamour of
his Great Men of England as well of the Clergy as Laity against the
Pope's Oppressions. *Clamorem Magnatum nostrorum Angliæ tam
Cleri quam Populi clamentis super Oppressiõibus, &c. non possumus
dissimulando pertransire.*

Note the
great M. n of
England, as
well Clergy as
Laity, were
the Kings
Magnates.
Ibid. n. 30.

From this general Clamour of the People, and not from their be-
ing Parties, it was that the beginning of the Letter from the Ba-
ronage, or as 'tis in the Margin, the Univerſity of England was
stuffed with so many words and phrases to awaken the Pope, and
incite him to redress the grievances.

*Ibid. fol. 700.
n. 50.*

In the rear of all these, and within the time of the 49 Hen. 3.
he brings a Record to patronize this conceit of his about the Ba-
ronage of England.

P. 114.

*Rex Abbati de Sancto Edmundo Salutem; cum pro oppressiõibus in-
numerabilibus factis in regno nostro per Ecclesiam Romanam ob quam
Magnates nostri ad sedem Apostolicam appellarunt & quodam (a) pro
ipsis & pro Univerſitate Baronagii Angliæ ad Concilium in brevi
celebrandum, ad Appellationem suam prosequendam duxerint destinandos.*

Cl. 29 Hen. 3.
m. 8. dorf.

(a) Here he hath mended the Record, and in stead of *de ipsis*, as it is in the Record, he
hath put *pro ipsis*, and added the Particle *Et* immediately after it, which is not in the
Record, to serve his purpose.

A Mandate to the Abbat of St. Edmunds-Bury, against the oppressions of the Church of Rome.

Cl. 29 Hen. 3. m. 8. Dors. Note, Magnates de ipsi pro Universitate, not pro ipsi & Universitate, as our Author hath made it.

Fol. 581. n. 20. 30.

(a) See before the Summons to the Archbishop of York, 26 Hen. 3. to be at London 15 days after Hilary, which is 28 Jan. and was the summons to this very great Council. (b) He was the Kings Brother.

Ibid, fol. 582. n. 10.

Note this passage.

This Record was a Mandate to the Abbat of Bury, for restraining the **Papal Legat**, his Clerk **Dr. Martin**, for gathering any **Papal Subsidies** in his Jurisdiction, or collating any person to Benefices without the **Kings** knowledge, until the **Messengers** sent by the **Baronage** to the **Council of Lyons** were returned, or sent answer what was to be done. The Record, as 'tis found in the **Roll**, I here transcribe it word for word.

Rex Abbati de Sancto Edmundo Salutem; cum pro oppressione innumerabilibus factis in regno nostro per Ecclesiam Romanam, ob quam Magnates nostri ad Sedem Apostolicam appellarunt, & quosdam de ipsis pro Universitate totius Baronagii ad Concilium Breve celebrandum, ad Appellationem suam proseguendam duxerint destinatos, &c.

These **Nuntii** or **Messengers** which were **de ipsis**, of the Great Men themselves, I have shewn to be **Earls** and **Barons**, (that is to say) **Earl Roger Bigod**, **John Fitz-Geoffrey**, **William de Cantelupe**, **Philip Basset**, and **Ralph Fitz-Nicholas**, all four **Barons**; and if any Man that considers the Record as I have truly related, without his **Alteration** and **Amendments**, cannot but judge the meaning of it to be against his **whimsey**.

I shall give him two or three **Proofs** more, that the **Commons** of **England**, as now understood, could not be a part of the **University**, or which is more, the **Common University** of **England**, and so not part of the **Baronage**, nor were as at this day represented in **Parliament**.

Ann. Dom. 1242. (saith Mat. Paris) on Tuesday before the Purification of V. M. the Archbishop of York, and all the Bishops of England, the Abbats, and Priors by themselves, or Proxies, and also all the Earls, and almost all the Barons of England met at Westminster, by the Kings (a) Writ to hear his Pleasure, and the Business for which they were called, the King sent to them, Solennes Nuntios, Dicum Dominum Eboracensem, & Dominum Comitem Richardum & Dominum Walterum de Eboraco & Prepositum de Beverlaco, his Commissioners or solemn Messengers, the said Archbishop, (b) Earl Richard, and Walter de Eboraco, Provost of Beverley, to ask their advice, and acquaint them with his intentions. Tandem dicti Episcopi, Abbates & Priores, Comites & Barones magno inter eos tractatu præhabito Domino Regi per predictos Magnates dederunt Consilium, &c. At length the said Bishops, Abbats, and Priors, Earls, and Barons, after a great Consultation between them, gave advice to the King by the said great Men, &c. (which is too long to be inserted here.) Et cum dicti Magnates nuntii istud Domino Regi nunciassent Responsum, redeuntes ad Baronagium dixerunt, Quod in parte sufficiens dederunt Domino Regi Responsum, sed Dominus Rex vult scire, &c. and when the said Great Men the Commissioners or Messengers, had Reported that Answer to the King, they returned to the Baronage, and told them, That in part they had given the King a sufficient answer, but the King will know, &c.

What clearer proof can there possible be, that all the **Bishops** of **England**, all the **Abbats** and **Priors**, and all the **Earls** and **Barons** of

A of England, were only the **Baronage** of England. For they were only those that met at *Westminster* by the Kings Writ, they were only those that received the Message from the Kings Commissioners, and consulted about it, they were only those that gave their advice upon that Message, and answer to it, they were only those, and could be no other, which are here called the **Baronage**, To whom the **Great Men** the Kings solemn Messengers or Commissioners returned, after they had reported their answer to the King, and told them it was but in part sufficient.

Who and what persons were the Baronage.

B *Eodem An.* (saith the Historian again) *convenerant Regia summone* *ratione convocati Lond. num Magnates totius Regni, Archiepiscopi, Episcopi, Abbates, Priores, Comites, & Barones. In quo Concilio petiit Rex ore proprio, in presentia Magnatum, in Refectorio Westmonasteriensis, Auxilium sibi fieri pecuniare. Cui fuit Responsum quod super hoc tractarent, recedentesque Magnates de Refectorio, convenerant Archiepiscopi & Episcopi, Abbates & Priores seorsim per se, superque hoc diligenter tractaturi; Tandem requisiti fuerunt ex parte eorum Comites & Barones, si vellent suis Consiliis unanimiter consentire, in Responsione & provisione super his facienda. Qui Responderunt, quod sine Communi Universitate nihil facerent; tunc de communi assensu electi fuerunt. Ex parte Cleri Electus Cantuariensis, Wintoniensis, Lincolnensis & Wigorniensis Episcopi. Ex parte Laicorum Richardus Comes Frater Domini Regis, Comes Bigod, Comes Legr. S. de Monteforti & Comes Marechallus W. Ex parte vero Baronum * Richardus de Montfichet & Johannes de Bailloil, & de Sancto Edmundo & Ramefeia Abbates; ut quod isti duodecim providerent in Communi recitaretur, nec aliqua forma Domino Regi ostenderetur autoritate Duodecim, nisi omnium Communis assensus intervenirent.*

Fol. 639 n. 20. A. D. 1244. 28 Hen. 3.

Note who were usually and regularly esteemed Magnates.

* Two great Barons S. c. Ducl. Baronage, Tom. 1.

D In the same year there were called together by the Kings **Simmons**, the **Great Men** of the whole Kingdom, the Arch-Bishops, Bishops, Abbats, Priors, Earls, and Barons. In which Council the King by his own Mouth, in the presence of the Great Men, in the Refectory at Westminster, desired a Pecuniary Aid; to whom it was answered, that they would treat about that matter; and the **Great Men** retiring out of the Refectory, the Arch-Bishops, Bishops, Abbats, and Priors, met and treated by themselves. At length the Earls and Barons were asked, if they would unanimously consent to the Resolutions they had taken in answering and making provision for what had been demanded of them; who answered, That without the **Common University** they would do nothing. Then by **Common assent** there were elected on behalf of the Clergy, the Elect of Canterbury, the Bishops of Lincoln, Winchester, and Worcester; on behalf of the **Laity** Earl Richard the Kings Brother, Earl Bigod, Earl of Leicester, Simon Montfort, and Earl William Marshall; for the **Barons**, Richard Montfichet, and John Baliol, and the Abbats of Bury, and Ramsey, that what they twelve should resolve on, should be recited in **Common**; and that no form should be shewn to the King by Authority of the twelve, which had not the **Common assent** of all.

An. 1244. 28 Hen. 3.

The Common University.

The Commons not comprehended in the Common University.

In this Parliament the several orders of men that were the constituent parts of it, were only the Bishops, Abbats, and Priors, the

the **Earls** and **Barons**, and *all these* put together, were termed the **Common Univerſity**, which is more comprehensive than *Univerſity* ſimply taken. If the **Commons** as at this day repreſented, had been there, we muſt have had ſome mention of them one way or other, or of a **Committee** of them, as well as of the **Committees** of the *other Orders*, which made up the *general Committee* of *twelve*, for it is plain here beyond doubt, that they were not comprehended in the **Common Univerſity**.

A

Fol. 981. n. 50.

The Noblemen of the Kingdom with the King at *Chriſtmas*.

The ſame Author reports, that *An. Dom. 1259. fuit Rex Henricus ad Natale Domini Londini, ubi magna ſollicitudine tractatum eſt inter nobiles Regni*. King Henry was at *Chriſtmas* at London, where the **Noblemen** of the Kingdom treated with great ſollicitude, how keeping to their reſolution they might ſatiſſie the deſire of Richard King of *Almaine*, which was very great and earneſt to come into England.

B

Ibid. fol. 682. n. 50. Feaſt of St. Hillary, Jan. 13.

The Council of the Baronage, what it was.

(a) Peter of Savoy was the Queen's Uncle, and Earl of Richmond.

Paris fol. 559. n. 30.

(b) John Manſell was the King's Clerk, Chancellor of St. Pauls, and his principal Counſellor. Par. fol. 616. n. 40. 859. n. 30.

A little afterwards the ſame perſons, *Circa feſtum Sancti Hillarii habito Concilio Communi & deliberatione diligenti ſuper adventu Regis Almannie Richardi in Angliam Nuntios ſolemnes in Occurſum ſuum deſtinaverunt, videlicet Episcopum Wigornienſem, Abbatem Sancti Edmundi, Petrum de Subaudia, Johannem Manſell; ut Idem Rex ipſos certificaret de cauſa adventus tam ſubiti tamque inopinati, & de morâ ſua in Angliâ. Comes autem Legrie Simon, non ſine multorum admiratione, in partibus adhuc tranſmarinis morabitur, unde in magnâ parte fuit Concilium Baronagii mutilatum*. That is, about the Feaſt of St. Hillary, upon a *Common Conſult*, and great deliberation, concerning the coming of Richard King of *Almaine* into England, they ſent *Messengers* or *Ambaſſadors* to meet him. That is to ſay, the Biſhop of Worcester, the Abbat of St. Edmundsbury, (a) Peter of Savoy, (b) and John Manſell, to expoſtulate the cauſe of his ſo ſudden and unexpected coming, and to underſtand how long he would ſtay. But Simon Earl of *Leyceſter*, to the admiration of many, ſtayed yet beyond Sea; by which means the **Council** of the **Baronage** was not compleat.

C

D

Ibid. fol. 983. n. 30.

And of theſe very *Ambaſſadors* or *Solemn Deſſengers* it was, that the *Hiſtorian* ſays, *Nuntius ſolemnibus a Communitate Anglie deſtinatis Ipſe Rex Alimannie, nimis torvo vultu & verbis minacibus Reſponderet, &c.* The King of *Almaine* answered the *Deſſengers* or *Commiſſioners* ſent by the **Community** of England with a ſtern countenance, and threatening words, &c.

E

The Noblemen the Community of England. *Paru ut ſupra.*

By theſe paſſages it is very clear and evident, that the **Noblemen** of England, and **Council** of the **Baronage**, were the **Community** of England. For the perſons that met at London, and treated about this Caſe, and choſe and ſent the four *Deſſengers*, were the **Noblemen** of England, and the **Council** of the **Baronage**; and yet it is ſaid theſe very *Messengers* were ſent from the **Community** of England; ſo that the **Univerſity** of the **Baronage**, the **Community** of England, and **Common Univerſity**, did ſignifie the ſame thing, and were ſometimes taken for a great appearance of the **Lay Nobility** only, ſometimes for all the **Orders** of the **Nobility** put together.

F

And

And further the **Communitas Anglie** in this very place is called or explained by **Nobiles Anglie**, and **Barones Anglie**, the *Noblemen* or *Barons* of *England* no less than four times within less than forty Lines next following upon the same side of the Leaf.

Ibid.

A To this may be added that our Author hath very ill luck that there cannot be found any one **Commoner** as at this day understood, that was a **Commissioner** or **Messenger** employed in any publick business mentioned in, or that was a **Witness** or **Party** to any of the *Records*, *Publick Letters* or *Instruments* he hath cited.

See more of this matter in the *Glossary* in the word *Communitas*, &c. P. 115.

B He produces two instances more, in the Reigns of *Edward I.* and *Edward III.* to shew that **Parliaments** since *Henry III.* have sent Letters to the **Pope**, when he attempted to invade the Rights of the *Crown*. But these I pass by, being beside the Controversie, and beyond the time limited for the decision of it; seeing it is without doubt, that then the **Commons** were a **Third Estate**, as at this day, or as he call them, an *Essential* or *constituent* part of the **Parliament**, yet doubt not but if it were any thing to the purpose, to make it appear, that the whole **Community** of the *Kingdom* of *England*, for which the **Barons** there named set to their *Seals*, to that *Letter* directed to the **Pope**, 12 Febr. 29 Ed. I. 1300, at *Lincoln*, were the **Community** of **Barons** only. There being at that time many *Earls* and *Barons* whose *Seals* are not put to that Instrument.

C I will conclude this Answer to his third Observation with the same words (as near as I can) our Author concludeth the Observation it self.

D Certainly the *difference* and great *variety* of words and phrases, by which both the ancient *Historians* and *Records*, have in their several ages and times expressed and denoted the *Communia Concilia Regni*, or **Parliaments**, and their constituent parts being not well observed and considered by our late Author (who understands them as if they signified what the word *Parliament* now doth) hath endeavour'd to impose upon our *Historical Faith*, and propagate to posterity many palpable and gross Errors, from whence great and unkind *clashings*, and *diversities* of *Opinions* amongst men may have their source and spring, nay even between *Prince* and *People*.

P. 121, 122.

The Historical Faith of the People abused by the Author.

F

The

The Appendix Considered.

Page 119.

IN this *Appendix* he endeavours to clear a material Objection, as he says offered him by some *Friends*, which is, That the **Commons**, or People of *England*, were from the time of the *Norman Conquest*, represented by such as held of the *King* in *Capite*, until the 49 of *Hen. 3.* and then by two *Knights* for each County, and certain *Burgesses* for several *Burghs*, and *Barons* for the *Cinq-Ports*.

'Tis probable the Commons were not at all represented before 49 *H. 3.* Pag. 1, 2, 3, and 74.

For my part I cannot see how this comes to be an Objection, if the *Commons*, as now understood, were not at all represented (as for ought I can find, I think they were not.) He hath undertaken to prove, that the **Commons** of *England* were represented by *Knights*, *Citizens*, and *Burgesses*, Elected and sent by those they represent, and that the **Commons**, or *Freemen* of *England*, as now called, and distinguished from the *Lords*, were an *Essential* and *Constituent* part of the *Great Councils* and *Parliaments*, during the *Brittish*, *Saxon*, and *Norman Governments*, which, if he had done, he need not have heeded what had been said about their being represented by *Tenents* in *Capite*, nor can he ever prove they were represented the same way he affirms, by disproving, they were represented by the *Tenents* in *Capite*.

The Authors Conceit of *Barones Regis*, & *Barones Regni*, p. 130.

But this was not so much intended for an *Objection*, as to Usher in an Opinion, and Conceit of his own (which may be of very dangerous Consequence to the *Nation* and *Government*;) that there anciently were **Barones Regis**, and **Barones Regni**, and so *milites & libere Tenentes de Rege*, & *Milites & Libere Tenentes de Regno*; a sort of **Barones Milites**, and *Free Tenents* certainly he means (or nothing) that were *sui juris*, and had no dependency upon the *Government*.

Page 131.

His Pretence for that Fancy.

First, To make this *Fancy* plausible, he tells us, that the *Ancient Chronicles* of the *Kingdom*, say, that both before and after the *Conquest*, the *Kings* of *England* held their *Court* three times in every year, at *Easter*, *Whitsontide*, and *Christmas*; And then the *Crown* was attended with most of those *qui de Rege tennuerunt in Capite*, which held of the *King* in Chief. This was called *Curia Regis*, the *Kings Court*, where matter of right between the *Kings Tenents* was determined. But, under favour (saith our Author) this was not the *Commune Concilium*, or *Parliament*, as we now call it. But when they, or *Contemporary Historians* take notice of the meeting of the *Commune Concilium Regni*, or *Parliament*, then their Expressions alter, and say, that *Rex asseruit*, *Ordericus Vitalis*, fol. 680. *Ex præcepto Regis convenerunt*, *Eadmerus*. *Rex Sanctione sua adunavit*. *Flor. Wigorn.* and many such like Expressions, which shew, it was not held *ex more*, of *Custom*; yet true it is, *Kings* did often *Convene*, or *Summon* the *Common-Council* of the *Kingdom* at one of the said Feasts, being a *great Conveniency* to the *Tenents* in *Capite*.

It is a Precarious Whimsey.

The

The whole, as he hath delivered it, is precarious, and he cannot evince the truth of it from any good Authority; And the contrary to it, that is, that the **Barones Regis & Regni**, were the same persons; and that usually the **Barons**, of what quality soever, did repair to the **Kings Court** at **Christmas**, **Easter**, and **Whitsunday**, doth appear to have been the Custom of those times he speaks of, from these Testimonies of Ancient Historians.

It is a Precarious Whimsy.

- A In a Chirograph, or Chart of Confirmation of the Lands to Croyland Abby, by King Edgar. *Sancitum est hoc in Anno Domini Incarnationis 966 presentibus Archiepiscopis, Episcopis Abbatibus, & Optimatibus Regni mei subnotatis*; This was done in the year of our Lords Incarnation 966, in the presence of the Arch-Bishops, Bishops, Abbats, and Chief Men of my Kingdom undernoted; And then, after the King, in the Subscription, follows the Arch-Bishops, Bishops, Abbats, Dukes, and Thaners. And in the same year King Edgar confirmed the Privileges of that Abby by Charter; *Privilegium illud Sancitum est in presentia Regis Edgari Prelatorum Procerumque Suorum, Anno Domini Incarnationis 966, apud London Collectorum*. That Privilege, or Charter of Privileges was confirmed in the presence of King Edgar, his Prelats, and Noblemen met at London, in the year of our Lord 966. And then after the King, in the Subscription, the same persons follow,
- B
- C and in this Chart are called **P's Prelats**, and **Noblemen**, which in the former Chart were called, the **Bishops**, **Abbats**, and **Chief Men** of **his Kingdom**.

Ingulpb. fol. 501. b. n. 30. 40.

Ibidem, fol. 502. a. n. 30. 40.

- Celebratum est Concilium in Ecclesia Beati Petri in occidentali parte juxta Londoniam sita communi consensu Episcoporum Abbatum & Principum totius Regni & huic conventui affuerunt Primates regni utriusque Ordinis*. There was a Council celebrated at Westminster, by the Common consent, of the Bishops, Abbats, and Princes of the Kingdom, and at this Meeting were present the Prime Men of the Kingdom of both Orders. In this Council the Bishops and Barons are called the principal men of the Kingdom, yet were the Kings Barons, they all held of him in Capite; and so did the Temporal Chief Men of the Kingdom.
- D

Eadmer, fol. 67. n. 20.

- E In Mid-Lent, Hen. 1. in the Third of his Reign went to Canterbury, to prevail with the Arch-Bishop Anselme to desist from maintaining the Popes Usurpations upon the Rights of the Crown, which His Predecessors had always enjoyed, and to urge him to undertake a Voyage to Rome, and to endeavour to obtain from the Pope, that he should quietly enjoy what were his Ancestors Rights. The Arch-Bishop desired the further Consideration of this Matter might be deferred until Easter, that he might make his Answer according to the Advice of the Bishops and Chief Men of the Kingdom. *Igitur in Pascha curiam venit, Communis Concilii vocem unam accepit, equum scilicet fore illum tantæ rei gratiâ viæ laborem debere, non subterfugere*. He came therefore to Court at Easter, and received the Unanimous Vote of the Common Council, that in so great a matter it was not fit for him to wave the Journey, though troublesome. What Common Council was
- F

Ibidem, fol. 63. n. 40. Anno Domini 1102.

Anno Dom. 1103.

this of the *Bishops* and *Chief Men* of the *Kingdom* that *Anselm* referred himself in Mid-Lent to be held at *Easter*? Was it not *ex more*, by *Custom*? He cannot find in *Eadmer* any *Summons* to it, neither *Rex ascrivit, præcepto Regis convenerunt*, nor *Rex Sanctione sua adunavit*.

Ibidem, fol.
90. n. 40.

Again, *adunatis*, without either (*præcepto Regis*, or *Sanctione*) *ad Curiam ejus in Pascha Terre Principibus*; the *Princes* or *Chief Men* of the *Nation* met at his Court at *Easter*.

A

Ibidem, fol.
91. n. 40.

And Note, there were *regni Episcopi* as well as *regni Barones* & *Principes*; if they signified any more, than other *Bishops*, or if any distinction could, or ought to be made by that Term. *Cepit Anselmus coram Rege regniq[ue] Episcopis, atque Principibus exigere à Gerardo Archiepiscopo Eboracensi professionem de sua obedientia, &c.* *Anselm* began to exact before the *King* and *Bishops* of the *Kingdom* and *Princes*, or *Chief Men*, the profession of Obedience from *Gerrard Archbishop* of *Tork*.

B

Ibidem, fol.
94. n. 50.

In another place *adunatis* (without either *Præcepto*, or *Sanctione Regis*) *ad curiam suam in Solemnitate Pentecostes apud Londoniæ Tuncis Maj[us] Regni*. All the *Great Men* of the *Kingdom* met at the *Kings Court* at *London* in the Solemnity of *Pentecost*.

C

Ibidem, fol.
102. n. 50.

Further, *In Festivitate Pentecostes Rex Hen. Curiam suam Londonia in magna mundi gloria celebravit & diviti apparatu, qui transactis Coronæ suæ festivioribus diebus, cepit agere cum Episcopis & regni Principibus, &c.*

In the *Feast* of *Pentecost* *King Henry* held a splendid *Court* in great worldly glory at *London*, who when the days of *Feasting* were past, began to *Treat* with the *Bishops* and *Great Men* of the *Kingdom*.

D

Ibidem, fol.
105. lin. 3.

I was the Custom in Germany and France, to hold Gr. at Councils at those times, and therefore the Ancient Historians tell us, where the Emperors and Kings of France always were at *Christmast*, *Easter*, and *Whitsunday*.

Yet further, the same Author, *In subsequente Nativitate Domini Christi Regnum Angliæ ad Curiam Regis Londoniæ pro more convenit, & magna Solemnitas habita est atque sublimis*. In the subsequent *Nativity* of our Lord *Christ*, the *Kingdom* of *England*, according to *Custom*, met at the *Kings Court* at *London*, and there was a great and high Solemnity. This *Instance* is full in all *points*. Here was the *Kingdom* of *England*, that is the *Baronage* or *Univerſity* of *England*, (for, as was noted before out of *Bracton*, the *Kingdom* consisted of *Earldoms* and *Baronies*) who met, according to *Custom*, at the *Kings Court*. And hence 'tis manifest, that at those times the *Common Council* of the *Kingdom* was held; from this also, and from the former *Instances*, 'tis most evident, that the *Barones*, *Principes*, *Optimates*, & *Majores Regni*, did, at those three *Great Feasts*, *pro more*, according to *Custom*, frequent the *Kings Court*.

E

Fol. 658. n. 40.
Fol. 659. li. 1.

Mat. Paris likewise says, *In die Pentecostes Dominus Rex Anglorum Londini festum tenens magnum & serenissimum, Tunc composita per Regni Univerſitatem Eleganti Epistolâ, &c.* In the day of *Pentecost* the *King* of *England* kept a most splendid *Feast* at *London*,

F

London, then there was an Elegant Epistle composed by the University of England, &c. This was about the Popes Exactions, as hath been before delivered; and Henry the Third in his Letter to the Pope, calls the same Persons, *Magnates Anglie*, which in his Letter to the Cardinals, about the same matter, he calls *Magnates Nostri*, as the Reader may see in the former Citation of them.

Magnates Anglie & *Magnates Nostri*, the Kings Great Men the same Persons.

A Perhaps it will be Answered, that he hath anticipated and evaded all this, by saying, it is true, Kings did often Convene, or Summon the Common Council of the Kingdom at one of the said Feasts, being a great conveniency to the Tenents in *Capite*; It may be, upon extraordinary business, it might be so, when the Occasion was great, and he desired a great and full Appearance, they might receive Summons at those times. But then I must desire him to shew us the Summons to any of these Common Councils, which when called at other times, are most constantly mentioned in this Author, and I must know of him what he will say to that *pro moze conbenit* which is spoken of the most General Council, when the Kingdom of England met at the Kings Court.

Page 132.

C But it was, he says, a great Conveniency to the Tenents in *Capite*, to have these Common Councils then appointed, as if there were Earls and Barons then in England, that did not hold their Earldoms and Baronies, and Estates in *Capite*. He grants, that Tenents in *Capite* were the Kings Barons, Bishops, Magnates, &c. Upon this we will joyn Issue. And I do affirm (without bringing Proofs, which are infinite in this Case) that all the Bishops, Earls, and Barons of England, did hold their Lands, Earldoms, and Baronies of the Crown, or which is all one, of the King, as of his Person, and that was in *Capite*.

All the Bishops Earls, and Barons of England were Tenents in *Capite*.

D William the Conqueror divided most of the Lands in England amongst his great Followers, to hold of him, he made Earls and Barons such as he pleased: They and their Descendants held upon the Terms of the first Grant, which was, to find so many Horse and Arms, and do such and such Services; both Titles and Lands were forfeitable, and for Treason or Felony they did forfeit them to the King, or for want of Heirs they Escheated to him; and for these Lands and Titles, they Swore Fealty to the King, and did him Homage; and became his Men from that day forward of Life and Limb, &c. and every Bishop, Earl and Baron of England was in these Circumstances, and held of the King after this manner.

Domesday-Book in every County.

The Barons Lands were Forfeitable, and escheated to the King.

They did Homage, and Swore Fealty to the King.

F Other Lands were given to other Persons for meaner Services; as to his Wood-wards, Foresters, Huntsmen, Falconers, Cooks, Chamberlains, Gold-smiths, Bayliffs of Mannors in his own hands, and many other Officers, which in *Domesday* are called *Terra Taniorum Regis*, and sometimes *Servientium Regis*; and I doubt not, what ever the notion of Petit Serjeanty is now, but that originally this holding of Lands was the true Tenure; not but presenting the Lord with a Bow, an Arrow, a pair of Spurs every year, &c. might also be called Petit Serjeanty, though not so properly as the other.

Land given by the Conqueror to ordinary Persons, or Servants.

Sub-feudataries.
Gerv. Tilb. l. 2.
c. 4.

Ibid. c. 15.

Titular Barons
the great Tenents
of great Subjects.
Seld Tit. Hon.
fol. 570.
Dugd. Warw.
Antiqu. f. 303.

Monast. vol. 1.
fol. 106. n. 30.

No such thing
as *Tenura de Regno*.

Tenents in Capite
the Kings Barons.

See Glossar. in
the words
Knights-Fees,
&c.
Most of the
Lands in England
in the possession of
Tenents in Capite.

Who ever held of the *Tenents in Capite*, by Mean Tenure in Military Service, held of those Barons, or *Tenents in Capite* by the same, or the like Tenure that themselves held of the King; and these **Sub-feudataries**, or *Sub-altern Feudataries* (as the *Feudists* call them) the King antiently might take any of them to his Service, if he would, and also distrain in their Fees for his Services, if the Lord *Paramount* performed them not, yea, and upon the Villain or other Lands that held of him. We never had any Baronies held by mean Tenures here in *England*; this, if he denies, he must deny all History, and all our Antient Law, and Law-Books; and if he grants it, he must confess, that every Baron was a *Tenant in Capite*, and by his own concession he must then be the Kings Baron, or **Baro Regis**.

Nominal and Titular Barons there were many, such were great Tenents to great Subjects. *Henry de Novo Burgo* Earl of *Warwick*, confirmed little *Chesterton* and *Hill* in the County of *Warwick-shire* to the Monastery of *Abendon*, in the presence of his Barons, of which *Richard Fitz-Osborn*, and *Thurstan de Montfort* are particularly named; the last of which held ten Knights Fees of *William* Earl of *Warwick* Grand-child to *Henry*. *Robert Fitz-Haymon* Earl of *Gloucester*, gave the Effart or Wood that had been stubbed, between *Marlowe* and *Hamstede* to the Abbey of *Abendon*, as it had been designed by his Barons. Several other great Subjects there were, who had Tenents that held five, six, seven, eight, or ten, or more Knights Fees under them, who had the Name and Title of Barons, as the Lord of the Isle of *Wight* in that Island, &c.

And further, I desire this Gentleman to shew in his next, if he can, where there was ever any such kind of Tenure, as *Tenura de Regno*: Whether there was ever any Man that held an Estate *de Regno*? Whether Forfeitures or Escheats were to the Kingdom? And whether Fealty was sworn, or Homage done to the Kingdom? Or whether an Earl was Invested, or Girt with the Sword of the County by the Kingdom, or whether the Antient Ceremonies, used at the Creations of Earls and Barons, were done by the Kingdom. Thus all the Barons of *England* held of the King, and thus all these things were performed and done to our Antient Kings, and by them which are most manifest Notes of the Kings Jurisdiction over the Barons, and that they were his *Tenents in Capite*, and by consequence his Barons, which our Author will not deny; of which *Tenents in Capite*, the Earls, and Great Barons always created by Investiture of Robes, or other Ceremonies, were summoned by particular Writs, and the other *Tenents in Capite* ever since the Seventeenth of King *John*, were summoned by one Common Writ, directed to the Sheriff of the County.

And of these *Tenents in Capite*, the greatest part of the Lands in *England* were holden by *Sub-Tenents in Military-Service*: But upon any Warlike Expedition, the King only summoned such as held of him *in Capite*, to do him Service in Horse and Arms, according to the number of Fees they held immediately of him, to whom, if they served in Person, and performed their whole Service by *Servientes*, whether Menial Servants, or Stipendiary Horse-men, (and either out

A

B

C

D

E

F

out of gain would not call, or out of favour spared their Tenents)
(a) the King alone, by his Prerogative, and by virtue of his Original Grant of Fees, granted them Warrants to receive Scutage and Aid of all their Tenents proportionable to the time they had been in the Kings Service, sometimes half a Mark, sometimes ten Shillings, sometimes one Mark, sometimes two or three Marks. &c. So that they were immediately accountable to the King, for the Fees they held of him, and their Tenents to them for their Fees they held of them. And that it was so, it is very manifest from the following Records.

A

Rex Vicecomiti Gloucestr. Salutem, precipimus tibi quod habere facias dilecto nobis Sahero Comiti Winton. auxilium de Militibus suis in Balliva tua, scilicet de Scuto tres Marcas, ad filium suum primogenitum Militem faciendum, & similiter rationabile auxilium de libere tenentibus suis ad idem.

B

Eodem modo scribitur omnibus Vicecomitibus in quorum Ballivis idem Comes terras habet; Teste meipso apud Stoke-Episcopi tricesimo die Junii.

C

The King to the Sheriff of Gloucester-shire, Greeting, We Command you that you cause our beloved Saher Earl of Winchester, to have Aid of his Knights or Military Tenents in your Bailiwick, that is, three Marks of every Fee, to make his eldest Son a Knight; and likewise a reasonable Aid of his Free Tenents for the same.

In the same manner the King wrote to all the Sheriffs in whose Bailiwicks the same Earl had Lands; Witness our Self at Bishops-Stoke, the thirtieth day of June.

D

Rex Vicecom. Northampt. salutem. Scias, quod concessimus dilecto & fideli Avunculo nostro W. Com. Sarum, quod habeat Scutagium suum de Militibus suis, qui de eo Tenent in Balliva tua pro exercitu nostro Walliæ in quo nunc est per preceptum nostrum, scilicet de Scuto duas Marcas. Et ideo tibi precipimus quod prædictum Scutagium ei habere facias ut prædictum est T. R. &c. apud Winton. 19. die Augusti.

E

Eodem modo scribitur Vicecomitibus. Midd. Lincoln. Oxon. Wilts. Dorf. Somers.

Eodem modo scribitur pro Hamone Pecher, Vicecomitibus. Cantebr. Norf. & Suff. Lincoln. Essex, Salop, Berks.

F

The King to the Sheriff of Northampton-shire, &c. Know, that we have granted to our Beloved and Faithful Uncle W. Earl of Salisbury, that he may have his Scutage of his Knights or Military Tenents, that hold of him in your Bailiwick, for his now being in our Army against the Welsh by our Command; that is, of every Fee two Marks, and therefore we Command you, that you cause him to have the foresaid Scutage. Witness the King, &c. at Winchester the nineteenth of August.

After

(a) Claus. 16. Johannis. m. 2. 4. Dorf. Claus. 5 Hen. 3. Dorf. Claus. 7 Hen. 3. m. 4. Dorf. Mat. Pat. m. fol. 322. 15. The King by His Prerogative granted Ibidem. Scutage and Aid to his Tenents in Capite. Cl. 15. Joh. m. 9. Aid granted by the King to his Tenents in Capite from their Tenents.

Cl. 7. H. 3. m. 4. Dorf. Scutage granted by the King to his Tenents in Capite from their Tenents.

After the same manner the King wrote to the Sheriffs of *Middlesex, Lincolnshire, Oxfordshire, Wiltshire, Dorsetshire, and Somersetshire.*

After the same manner the King wrote for *Hamon Peche*, to the Sheriffs of *Cambridgeshire, Norfolk and Suffolk, Lincoln, Essex, Salop, and Berks*.

Ibidem.
An Aid granted by the Kings Prerogative to his Tenents in Capite, from their ordinary Freeholders.

Rex Vicecomitibus Midd. salutem. Scias quod concessimus W. Com. Sarum quod habeat rationabile auxilium de liberis hominibus suis in Balliva tua ad se sustentandum in servitio nostro in exercitu Wallie in quo nunc est per preceptum nostrum & ideo tibi precipimus quod predictum auxilium ei habere facias ut predictum est T. ut supra.

Eodem modo scribitur Vicecomitibus Hereford, Wilts, Somerset, & Dorset, Southampton, Bedford & Bucks, Cantebr. & Huntington, Essex & Hertford, Lanc. Northampt. Norf. & Suff. Oxon. Gloucest. Wigorn. Heref. Suffex, pro Com. W. Mar. tam de Scutag. quam de auxilio habendis, &c. T.R. apud Westm. 23. die Augusti.

Eodem modo scribitur pro Hamone Peche de auxilio habendo Vicecom. Cantebr. Essex, Lincoln, Lanc. Norf. & Suff.

Eodem modo scribitur pro W. de Bello Campo, de Scutag. habendo Vicecom. Midd. Rotel. Hertford, Surr. Bedf. Bucks, Hunt. Berks.

Eodem modo, &c. Vicecom. Nott. pro Waltero de Clifford, de Scutagio suo habendo.

Ibidem.
All Normans. Scutage and Aid granted by the Kings Prerogative to his Tenents in Capite from their Tenents.

Eodem modo scribitur separalibus Vicecom. pro Scutag. & auxilio habendo pro W. Fil. Warini, Hugone de Mortuo Mari, Roberto de Bello Campo, Warino de Monchenfey, Phillipio de Columbariis, Hen. de Brayosa, Mauriti. de Gant, Will. de Gamages, W. Briwer Jun. Stephano de Ebroicis, Comite H. le Begod, Hugh de Kilpeck, J. Episcopo Bathon. W. de Maundevill, Com. Essex, Johanne de Boterell, Hen. de Tracy, Walt. de Baskervill, W. de Kantilupo, Rob. de Novo Burgho, G. Com. Cloucest. Rob. de Curtenay, Rob. de Mucegros, Rob. de Vallibus, Walt. de Escot.

The King to the Sheriff of *Middlesex, &c.* Know ye, that we have granted to *W. Earl of Salisbury* a reasonable Aid of his Free-men in your Bailiwick to support him in our Service in the Army against the *Welsh*, in which he now is by our Command, and therefore we Command you to cause him to have the foresaid Aid; Witness as above.

After the same manner the King wrote to the Sheriffs of *Wilts, Somerset and Dorset-shires, Bedford and Buckingham-shires, Cambridge and Huntington-shires, Essex and Hertford-shires, Northampton-shire, Kent, Suffex, Norfolk and Suffolk, Oxford, Gloucester, Worcester, and Hereford-shires*, for *William Earl Marshall*, that he might have his Scutage and Aids: Witness the King at *Westminster* the 23. of *August*.

After

After the same manner, &c. for *Hamon Peche*, for his Aid to the Sheriffs of *Cambridge-shire, Essex, Lincoln-shire, Kent, Norfolk* and *Suffolk*.

In the same manner, &c. for *W. Beauchamp* for his Scutage to the Sheriffs of *Middlesex, Roteland, Hertford-shire, Surrey, Bedford, Buckingham, Huntington* and *Berk-shires*.

A

In the same manner, &c. to the Sheriff of *Nottingham-shire* for *Walter de Clifford* to have his Scutage.

In the same manner the King wrote to the several Sheriffs for Scutage and Aid for *W. Fitz-Warin, Hugh Mortemer, Robert Beauchamp, Warin de Monchensey, Phillip de Columers, Hen. de Brayose, Maurice de Gant, Will. de Gamages, Will. Briwer Junior, Stephan D'euereux, Earl H. Bigod, Hugh de Kilpeck, J. Bishop of Bath, W. de Mandevill, Earl of Essex, John de Boterell, or Botereaux, Hen. de Tracy, Walter de Baskervill, Will. de Cantilupe, Robert de Neuborough, G. Earl of Gloucester, Robert de Courtney, Robert Mucegros, Robert de Vaus, Walter de Escot*.

B

Rex Vicecomitibus Wigorn' Salutem, Quia dilectus & fidelis noster Hugo le Dispenser, per praeceptum nostrum fuit cum dilecto consanguineo & fidei nostro Edmundo Comite Cornubiæ, qui moram traxit in Anglia, pro conservatione pacis nostræ Anno Regni nostri decimo, nobis tunc existentibus in exercitu nostro Walliæ, tibi precipimus quod eidem Hugoni facias habere Scutagium suum de feodis Militum, Quæ de eo tenentur in Balliva tua, videlicet quadraginta solidos de Scuto, pro exercitu nostro prædicto, & hoc nullatenus omittas. Teste Edmundo Comite Cornubiæ Consang. Regis apud Westm. 13. die Aprilis.

C

D

Consimiles Litteræ diriguntur Vicecomitibus, Leicest. Eborum, Lincoln, Staff. Wilts, Southt' Surr. Bucks, Essex, North. Oxon, Berks, Norf. Suff. Rotel. & Justic. Cestr. T. ut supra.

E

The King to the Sheriff of *Worcestershire, &c.* Because *Hugh Dispenser* by our Command, was with our Cousin-German *Edmund Earl of Cornwall*, who stay'd in *England* for the Conservation of our Peace, in the Tenth year of our Reign, we being then in our Army against the *Welsh*, we Command you, that ye cause the same *Hugh* to have his Scutage of the Knights or Military Fees which hold of him in your Bailiwick, that is, forty Shillings of every Fee, by reason of our Army aforesaid; and this you shall in no wise omit, witness *Edmund Earl of Cornwall* the Kings Cousin at *Westminster* the 13th day of *April*.

F

The like Letters were directed to the Sheriffs of *Leicester, York, Lincoln, Stafford, Wilts, and Southampton-shires, Surrey, Essex, Norfolk and Suffolk, Buckingham, Northampton, Oxford, Berk, and Rutland-shires*, and to the Justiciary of *Chester*, witness as above.

Rex Vicecomitibus Eborum salutem, Quia dilectus & fidelis noster Henr. de Lacy Comes Lincoln' non sine magnis sumptibus & expensis, ad Communitatem

De monte canisio.
De Bruera.

Ex. Rot. Scutag incipien. Anno 10. Ed. 1. & continuat. usq; Annum. 19. De An. 15. The King by his Prerogative Grants Scutage to his Tenants though not in the Army, and otherwise employed by the King.

Rot de Scutag. de Anno Regni Reg. E. fil. Reg. Hen. 3. m. 2.

The King accepts Civil im-
ployment be-
yond Sea for
Military Ser-
vice, and grants
his Tenent in
Capite Scute
of his Tenents,
as if he had
been actually
in his Service.

Communem utilitatem Regni nostri fuit in obsequium nostrum per preceptum nostrum in partibus Franciæ pro Reformatione pacis inter nos & Regem Franciæ Tempore quo eramus in exercitu nostro Scotiæ anno videlicet regni nostri 31. Quod quidem obsequium loco servitii sui quod tunc nobis fecisse debuerat acceptamus, tibi præcipimus quod eidem Comiti, habere facias Scutagium suum de feodis Militum, quæ de eo tenentur in Balliva tua videlicet quadraginta solidos de Scuto pro exercitu nostro prædicto, & hoc nullatenus omittas, T. R. apud Westminster 6. die April.

A

Consimiles Literas habet idem Comes Vicecomitibus subscriptis, videlicet Wilts, Bedford, Bucks, Somers. Dorset, Glouc. Norf. Suff. Hertford, Leic. Lanc. Nottingh. Derby, North? Midd. Cantabr. Oxon. Berks, T. ut supra.

The King to the Sheriff of Yorkshire, Greeting, Because our Beloved and Faithful Henry de Lacy Earl of Lincoln, not without great Costs and Charge for the common Profit of the Kingdom, was in our Service in France by our Command, for treating a Peace between us and the King of France, at the time when we were with our Army in Scotland, in the one and thirtieth year of our Reign, which imployment we accept instead of his Service, he ought then to have performed to us. We Command you to cause the said Earl to have his Scutage of the Knights Fees which are holden of him in your Bailiwick, that is forty Shillings of every Fee for our Army aforesaid, and this you shall in no wise omit: Witness the King at Westminster the sixth day of April.

B

The like Letters the said Earl had to the Sheriffs of Wilt, Bedford, Buckingham, Somerset, Dorset, Gloucester, Hertford, Leicester, Nottingham, Derby, Northampton, Cambridge, Oxford, Berk and Lancashire, Middlesex, Norfolk and Suffolk: Witness as above.

C

Rex Vicecom' Eborum Salutem, Quia dilectus & fidelis noster Henricus de Percy fuit nobiscum per preceptum nostrum in exercitu nostro Scotiæ Anno Regis nostri 31. Tibi præcipimus quod eidem Henrico habere facias Scutagium suum de feodis Militum, quæ de eo tenentur in Balliva tua, videlicet quadraginta solidos de Scuto pro exercitu nostro prædicto, & hoc nullatenus omittas, T. R. ut supra.

D

Consimiles Literas habet Idem Henricus Vicecomitibus subscriptis, videlicet Lincoln, Nottingh. Derby, Cant. Huntingd. Norf. Suff. Salop, Stafford, T. ut supra.

E

The King of
his special
Grace, grants
Scutage to the
Executors of a
deceased Te-
nent in Capite.

Consimiles Literas habent Executores Testamenti Johannis de Warrenna quondam Comit. Surr. defuncti de habendo Scutag. de feod. Militum quæ de ipso Comite Tenebantur die quod obiit de Gratia Regis speciali, Vicecomitibus Surr. Suffex, Essex, Hertf. Bucks, Lincoln, North. Ebor. T. R. apud Kenington 23. die Maii per Breve de privato Sigillo.

F

The Executors of the Testament of John Warren late Earl of Surrey deceased, had the like Letters, that by the Kings special Grace, they might have Scutage of the Knights Fees, which held of the Earl at the time of his Death, directed to the Sheriffs of Surrey, Suffex, Essex, Hertford, Buckingham, Lincoln, Northampton and Yorkshire: Witness the King at Kenington the 23th of May, by Writ of Privy-Seal.

Consimiles

Consimiles literas habent subscripti Vicecomitibus subscriptis, Prior de Coventry Qui finem fecit, &c. habet Scutagium suum in Com. War. Leycest. Northt. Glouc. Wigorn. T. R. apud Fynden 19 die Junii.

A *Abissa Shaston quæ finem fecit, &c. habet Scutag. suum in Com. Abbas de Shireburn Qui habuit Servitium suum, &c. habet Scutagium suum in Com. Dorf. & Devon. T. R. ut supra.*

B Thus it was for *Ayds*, and *Scutage-service*, but if it was for *Scutage* by *Grant* in Parliament, or as a *Tax* upon Lands by the common consent of the Nation, then the *Tenents* in *Capite* were the *Collectors* of that *Scutage* only, from their Military Tenents, and the Writ to the Sheriff was different from those of *Scutage Service*, though in substance, and according to the thing it self they were the same.

C *Rex Vicecomiti Suffex salutem. Scias Quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & omnes alii de Regno nostro Anglie Qui de nobis Tenent in Capite, spontanea voluntate sua & sine Consuetudine, Concesserunt nobis Efficax Auxilium ad magna negotia nostra Expedienda, unde provisum est de Consilio illorum Quod habeamus de Feodis Militum & Wardis Quæ de nobis Tenent in Capite, Duas marcas ad predictum auxilium faciendum, & unde providerint reddere nobis unam medietatem ante festum Sancti Michaelis Anno Regni 19. & aliam Medietatem ad pasche Anno Regni nostri 20. Ideo Tibi precipimus Quod ad * Manatum venerabilis patris R. Cisterien. Episcopi Cancellarii nostri, sine Dilatione Distingas omnes Milites & liberos tenentes, Qui de eo Tenent per Servitium Militare in Balliva tua, ad Reddendum ei de singulis feodis Militum, & Wardis Duas Marcas, ad predictum Auxilium nobis per manum suam Reddendum in Terminis predictis.*

Cl. 19 Hen. 3. m. 8. Dorf.

* He was to give this Command as a Baron, and not as Chancellor, as appears by the Sic Scribitur, &c.

D *Sic scribitur pro aliis Episcopis Abbatibus Prioribus & Magnatibus.*

E The King to the Sheriff of *Suffex*, &c. Know ye that the *Arch-Bishops, Bishops, Abbats, Earls, Barons*, and all others of Our Kingdom which hold of Us in *Capite*, of their free Will and not of Custom, have granted to Us, &c. that we shall have two Marks of every *Knights Fee* and of *Wards* which hold of Us in *Capite* two Marks, &c. Therefore We Command you, That at the Command of R. Bishop of *Chichester* our Chancellor, you distrein all *Knights* and free *Tenents* that hold of him by *Military Service* in your Bayliwick, to pay him of every *Knights Fee* and of *Wards*, two Marks, toward the *Ayd* aforesaid to be paid to Us by his Hands, at the times aforesaid.

F I have said enough, I hope, to satisfy any sober Man of the *Idleness* of our Authors Fancy concerning *Barones Regis & Regni*, which were the same Persons; and also to shew that the King anciently by his *Prerogative*, and his Original Power and Right, reserved upon *Military Fees*, did Tax the *Military Tenents* of his Tenents in *Capite*, and their other ordinary free Tenents, and by his Writs caused them to pay unto them *Scutage* of both kinds, and Reasonable Aids.

I have said enough, I hope, to satisfie any quiet sober Man of the Idleness of our Author's Fancy, concerning **Barones Regis & Regni**, which were the same Persons.

Page 132.

Ibidem.

Hoved. f. 445.
b. n. 40.

Ibidem.

Our Author
adds to Hoveden's words.

From this Aery Ambuscade of **Barones Regis & Regni**, he retreats to his old Notion, and proceeds to shew, that the *Milites Tenentes qui de Rege tenuerunt in Capite*, together with the other Great Lords that held of the King, were not the *Partes constituentes*, and alone did compose and make up the *Totum*, the whole Body of the *Generale*, or *Commune Concilium Regni*, or Parliament, and begins with a Statute or Act of Parliament made in the time of *Richard the First*: The Assize (saith he) or Statute, being made *per Assensum & Concilium, Archiepiscoporum, & Episcoporum, & Abbatum, Comitum & Baronum, Militum & Libere Tenentium totius Regni*. He hath added these three words, **Et Libere Tenentium**, after the word *Militum*; they are not to be found in *Hoveden*, whom he cites in the Margin, but conceals the Folio and Number. 'Tis Natural to him, he cannot give over adding to, or leaving out of Records and Histories what he judgeth makes for his purpose.

What the Historian delivers in short, is this:

Ibidem.

See Propositus
in the
Gloss.

After he hath enumerated the Articles of the ordinary Pleas of the Crown, he mentions the Forest Pleas, and says, *Præceptum est, ex parte Regis ut convenirent coram iis* (the Justices of the Forest which he there names) *per singulos Comitatus per quos ituri essent ad Placita Foresta, Archiepiscopi, Episcopi, Comites & Barones, & omnes Libere Tenentes, & de unaquaque villâ prepositus, & Quatuor Homines ad audienda præcepta Regis*.

Hoveden, ut
supra.He is truly
cited.Milites here
were Tenents
in Capite, and
no others:
See Knights
Fees and Mi-
lites in the
Glossary.Our Author
makes all the
Men of Eng-
land Members
of Parliament,
p. 133, 134.

That is, it is commanded by the King, that in every County through which his Justices of the Forest should go, the Archbishops, Bishops, Earls and Barons, and all Free-Tenents, and of every Town the Chief Officer, and four others, should appear before them, to hear the Kings COMMANDS. And then immediately follows the Assize or Forest Laws, with this preamble, which our Author cites in part with his own Addition of (*& libere Tenentium*) after *Militum*. *Hec est Assiza Domini Regis, & hec sunt præcepta de Forestis suis in Angliâ facta per Assensum & Consilium Archiepiscoporum, Episcoporum, & Abbatum, Comitum & Baronum, & Militum totius Regni*. This is the Assize of the Lord the King, and these the Precepts concerning his Forests in *England*, made by the Assent and Advice of the Archbishops, Bishops, Earls, Barons, and Milites of the whole Kingdom; not a word of any **Free Tenents** in the Historian, which he hath here foisted in. But, Why did he not also bring in the Lords Bayliff, and the four other Men in every Town, as Consenters to, and Advisers in the making this Law? It would have fitted his Conceit better. For it seems to me he is not satisfy'd to have all the **Free-holders** in General, as he translates **Libere Tenentes**, meaning our ordinary Free-holders, as at this day, to be Essential and Constituent parts of the Parliament, but would bring in *Tag, Rag, and Long-Tail*, the whole Rabble to be Law-makers: And to make good this Giddy Notion, he makes use of

of the word *Fideles* in two several Records; Rot. Pat. 6 *Johannis*, m. 2. dorf. & Rot. Pat. 8, 9. *Johannis*, n. 3. & *omnes de Regno qui dederunt Regi Quintam Decimam*, &c. in the last Chapter of *Magna Charta*, where he would have *fideles* & *omnes de Regno* signifie all Subjects in general.

P. 138.

A As for the word *Fideles* in the first Record, it is evident; they were the Kings Tenents in Capite only. Rex, &c. *Viccom. Rotel. &c. Scias quod provisum est Comuni assensu Archiepiscoporum, Episcoporum, Comitum, Baronum & omnium fidelium nostrorum Anglia Quod Robem Milites per totam Angliam invenirent decimum Militem bene paratum Equis & Armis ad defensionem Regni nostri, & quod illi Robem Milites invenirent Decimo Militi quolibet die iis ad Liberationem suam; & ideo tibi precipimus quod sicut teipsum & omnia tua diligis, provideas quod decimi Milites de Baliva tua sint apud London a die Pasche in tres septimanas bene parati Equis & Armis, &c.* That is, the King to the Sheriff of Roteland, &c. Know, that it hath been provided by the Common Assent of the Archbishops, Bishops, Earls, Barons, and all our *Fideles*, or *Tenentes in Capite*, that nine Knights through all England should find a Tenth, well provided with Horse and Arms for the defence of our Kingdom, and that those Nine shall find the Tenth Knight every day two shillings for his Pay and Wages, and therefore we Command thee, &c.

Pat. 6. *Johannis*, m. 2. Dorf.

Page 133. *Fideles* in this Record, Tenents in Capite.

B C What could these *Fideles Anglia* be but *Tenents in Capite*? What had other Men to do to give assent to this Law, that were not concerned in it, nor could be? The Nine Knights also that were to find a Tenth, were *Tenents in Capite*, and the Tenth also, for they would never have allowed so great pay to an ordinary *Miles* (Horseman) or *Tenant in Military Service*. Two shillings a day in the 6th of King John, Anno Dom. 1205. 465 years since, is at least Thirty shillings a day now: And therefore he that had this allowance, went forth in a good Equipage, and maintained (without doubt) several Soldiers, Servientes, or Esquires with it, and was a *Tenant in Capite*.

D E 'Tis most probable likewise, that the *Fideles* mentioned in the other Record about *Romescot*, were *Tenents in Capite*. He only recites these words of it, *Universitas Comitum, Baronum, Militum & aliorum fidelium*, in the Record, *Fidelium nostrorum*; but the Difficulty in this Record is, that the *alique fideles* follow *Comites, Barones, & Milites*, and therefore they were the Kings ordinary Subjects, or other ordinary Free Tenents, and not *Tenents in Capite*. But *Mat. Paris* expounds the *alique fideles*, and helps us out of this difficulty.

Pat. 8. 9. *Johannis*, n. 3.

F *Imminentibus autem & instantibus Calendis Julii* (saith he) *Rex Anglia per Literas suas strictissime submonitis & convocatis omnibus Comitibus, Baronibus, Militibus & aliis qui ei Serbitium Militare debebant, ut se convenienter in Walliam profecturi sequerentur.*

Paris, fol. 660. n. 20. An. Dom. 1245. Hen. 3. 29.

The King of England on the first of July, by his Letters, straightly summoned and called together, all the Earls, Barons, and Knights, and others, that ought him Military Service, that they might follow him, being about to march into Wales. Here we find others that ought the King Military Service, and so were *Tenents in Capite*, be-

fides Earls, Barons, and Knights, the place is plain, and needs no further Exposition.

Fol. 693. n. 20.
Note, who the
Magnates
totius Regni.

Besides the *Univerſitas Comitum, Baronum, Militum, & aliorum fidelium noſtroꝝ* in this Record, were the ſame Perſons mentioned in the Record immediately before this, *Pat. 8, 9. Johannis, n. 2.* which were the *Archiepiſcopi, Epifcopi, Abbates, Priores, & Magnates Regni*; The Archbishops, Biſhops, Abbats, Priors, and Great Men, who gave the King an Aid, &c. And who the *Magnates* were, *Mat. Paris* alſo informs us. *Convenerunt Londini Magnates totius Regni, Archiepiſcopi, Epifcopi, Abbates, Priores, Comites & Barones, in quo Concilio Rex, &c.* The Great Men of the whole Kingdom met at London, the Archbishops, Biſhops, Abbats, Priors, Earls and Barons, in which Council the King, &c.

But though this is clear to any unprejudiced Perſon, yet I muſt be forced to recite the whole Record, though ſomewhat long, for he gives us a touch of his old ſkill, and *Diſinforms* his Readers about the meaning of ſome part of it.

Page 134, 135.

Our Author
miſinforms
his Readers.
Page 135.

He ſays, the *Univerſitas Comitum, Baronum, Militum, & aliorum fidelium* complain againſt the Clergy about *Romeſcor*, whereupon the King granted his Prohibition or *Superſedeas* to the Clergy, that they ſhould do nothing therein. *Quouſque cum Univerſitate* (before-mentioned) *ſuper hoc Colloquium habemus*; Theſe are his own words, and by this laſt Clause he would poſſeſs his Readers, that the *Univerſity*, with which the King would have Conference, was the *Univerſity* of the Earls, Barons, Knights, and others his *Fideles*. But it is far otherwiſe, for the words in the Prohibition are, *quouſque cum Univerſitate veſtra ſuper hoc colloquium habuimus*; it being directed to the Archbishops, Biſhops, Abbats, Archdeacons, and all the Clergy, and it was *cum Univerſitate veſtra*, or with the *Univerſity* of the Clergy (which often occurs in *Paris* and other Hiſtorians) that he would *habere colloquium*. The Record will make his miſtake evident, and for the matter it contains, is not altogether unworthy peruſal.

Pat. 8 & 9.
Johannis n. 3.

The King forbids the Clergy, that they hold not a Council by the Popes Authority.

Rex Archiepiſcopis, Epifcopis, Abbatibus, Archidiaconis & omni Clero apud Sanctum Albanum condonato ſalutem, conquerente univerſitate Comitum, Baronum, Militum, & aliorum, fidelium noſtroꝝ, audivimus, quod non ſolum in Laicorum gravem perniciem, ſed etiam in totius regni noſtri intolerabile diſpendium ſuper Romeſcorro præter conſuetudinem ſolvendo & aliis pluribus inſuetis exactionibus autoritate ſummi Pontificis conſilium inire & concilium celebrare decreviſtis. Nos vero licet ob honorem fidei noſtra & debitum Reverentia quod ſancta Eccleſie Romane impendere tenemur, voluntatem ejuſdem patris noſtri Domini Pape Innocen. obtemperare cupiamus, tamen omittere non poſſumus quin querel. fidelium & ſubditorum noſtroꝝ clamantium & de jactura ſua ſibi prout neceſſe eſt ſubveniamus, & emergentibus cauſis qua indemnitati pacis & unitatis regni noſtri obviare poſſunt, qua decet celeritate & diligentia occurramus; Vobis igitur præciſe mandamus & expreſſe prohibemus ne ſuper prædictis vel aliquibus aliis concilium aliquod autoritate aliqua in fide qua nobis tenemini teneatis vel contra regni noſtri conſuetudinem

A *nem aliquod novum statuatis. Sed sicut & nos honorem nostrum & communem regni tranquillitatem diligitis, à celebratione hujusmodi concilii & à prædictis tractatibus ad præsens supersedeatis quousque cum uniberitate vestra super hoc colloquium habuimus, Scientes pro certo quod expediet honori Sancte Romane Ecclesie & Domino Pape & nobis & vobis quod istud ad præsens negotium differatur donec speciale habuimus conferentiam quomodo possit commodius & honestius explicari. Et quod vobis hoc mandamus pro honore & commodo sacrosanctæ Ecclesie & nostro & regni id facimus, Quia talia audivimus quod fieri necessario expediet, sicut vobis dicemus cum vobiscum locuti fuerimus. T. me ipso apud Ebor. 26. die Maij.*

B After he hath played with the word *Fideles* in these two Records, he proceeds to the *Omnēs de Regno* in *Magna Charta* in Pulton's Statutes, chap. 37. In Coke's second Institutes, chap. 38. This Charter is not upon Record in the Ninth of Henry the Third, the year it was granted; nor do I believe it is entered any other where until the 21 Edw. I. 68 years after upon the Statute Roll by *Inspeximus*; The words about the meaning whereof we differ, are these, *pro hac autem Donatione & concessione libertatum istarum, & aliarum libertatum contentarum in charta nostrâ de libertatibus Forestæ, Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, Milites Liberè Tenentes, & Omnēs de Regno dederunt Quintam Decimam partem omnium mobilium suorum.* For this Grant and Concession of these Liberties (contained in *Magna Charta*) and other Liberties in our Charter of the Liberties of the Forest, the Archbishops, Bishops, Abbats, Priors, Earls, Barons, Knights, Free-holders, and all of the Kingdom, gave the fifteenth part of all their Moveables.

P. 138.

D His Observation upon these words is, that those which gave this Subsidy, were the Members of that Parliament.

P. 138.

E But if it were so according to the literal meaning of the words, then all men, as well those that had Estates in Land, as those that had not, all *Coppyholders*, all *Tradesmen*, all *Bondmen*, and *Villains*, of which there were great store in those days, and all *Servants* were Members of that Parliament.

E And if so, I would willingly understand where all these People should meet, how their Councils should be managed, and how it is possible in such meetings (if any such there can be) to prevent the greatest confusion imaginable.

F The meaning then of the words must be, that the Archbishops, Bishops, Abbats, Earls, Barons, Knights, Free-Tenents, and all of the Kingdom, or all the Kings Subjects *dederunt*, that is, paid a fifteenth part of their Moveables to the King, for his granting these Charters, not that they gave or granted the Subsidy; and 'tis reasonable to conclude, that all the Kings Subjects paid this fifteenth part, because one way or other little or much they enjoyed the Benefit of them.

Omnēs de Regno, how to be understood.

I take this to be the Genuine sense of the words; but the History both of Granting the Charters, and Subsidy out of *Mat. Paris* makes it very apparent who were the constituent parts of this Parliament.

Magna Charta and the nature of all men's Moveables how granted.

So

Fol. 223. n. 10.
20. 9. Hen. 3.

* Q. Whether
it deceas
doth not im-
ply that this
Conv ntion
or Sole nity
at Christmase,
was ex more,
by Custom.
Here is not
the least hint
of any Sum-
mons as at
other times.

Ibid. n. 20. 30.

They were
Bishops, Earls,
Barons, Ab-
bats, and
Priors only
that granted
the 15th, men-
tioned in
Magna Charta.
Pulsons Stat.
fol. 9. the
Preamble to
the Statutes
of Merton.
Fol. 42. n. 40.
At the Priory
of the Town
of Merton in
in Surrey.

So much of it as is pertinent to this matter, I here transcribe, *An. Dom. 1225. Rex Hen. ad Natale tenuit Curiam suam apud Westmonasterium presentibus Clero, & Populo cum Magnatibus Regionis, Solennitate igitur completa* * ut decebat Hubertus de Burgo Domini Regis Justiciarius ex parte ejusdem Regis proposuit coram Archiepiscopis, Episcopis, Comitibus, Baronibus, & aliis Universis, Damna & injurias quae Regi allata fuerunt in partibus transmarinis; petiit ergo ab omnibus Consilium, pariter & Auxilium, quibus corona Angliae dignitates amissas ac jura possit pristina revocare, ad hoc quoque plene perficiendum Regi sufficere credidit, si ei Quinta-Decima pars omnium rerum mobilium totius Angliae, tam a personis Ecclesiasticis, quam a Laicis donaretur; Hiis in hunc modum prosecutis, Archiepiscopus, & concio tota, Episcoporum, Comitum, Baronum, Abbatum, & Priorum, habita deliberatione Regi dedere Responsum, quod Regis petitionibus gratanter acquiescerent, si illis diu petitas Libertates concedere voluisset, annuit Rex, quod petebant Magnates. That is, in the year of our Lord 1225. King Henry at Christmase held his Court at Westminster, and the solemnity being compleat, as it was fit it should be, Hubert de Burgh the Kings Justiciary on behalf of the King propounded before the Arch-Bishops, Bishops, Earls, Barons, and all others, the Damages, and Injuries the King had sustained beyond Sea, and asked of them all Aid, and Counsel, by which the Crown of England might recover its lost Dignities, and pristin Rights, and said he believed it would be sufficient fully to perfect that work, if a fifteenth part of all the Moveables of England, as well of Ecclesiasticks, as Laicks, were granted to the King. To these things thus urged, the Arch-Bishops, and the whole Assembly of Bishops, Earls, Barons, Abbats, and Priors, after consultation had about them, gave the King this Answer, that they would willingly comply with his Demand, if he would grant them their long requested Liberties. The King consented to what the great Men demanded, and the Charters were forthwith transcribed, Sealed with the Kings Seal, and sent into the several Counties, and were the very same Charters King John had before granted.

Upon this Account of this Parliament, or great Council, we may observe, that the Men that consulted about the Kings demands, that gave the King answer concerning them, and that granted the fifteenth part of the Moveables, as well of the Ecclesiasticks, as Laicks of the whole Kingdom, were only the Arch-Bishops, Bishops, Earls, Barons, Abbats, and Priors. And therefore they the only constituent parts of this Parliament, as they were also of the Parliament or great Council held at Merton in the 20th year of this Kings Reign. Whither says Mat. Paris, Consummato cum gaudio Nuptiali convivio Rex recedens a Londoniis venit Mertonam, ut ibi revocati Magnates una cum Rege de Regni negotiis contrerarent. After the Nuptial Entertainment the King retired to Merton, and called thither the great Men, that together with Him they might treat about the Business of the Kingdom; not one word of the Commons in either place.

Having before evinced the meaning of the words Clerus and Populus, I cannot foresee what Cavil can be raised about this Narrative of this Parliament, unless some men may think there may be something

thing more than ordinary, couched in the words **Solennitate plena**; which signifie nothing but a great or full Appearance at the Solemnity of *Christmas* in the King's Court; or if they will strain the sense of the word further, in relation to the great Council, or Parliament it self, they then signifie no more than that it was a full Parliament, and that there was a great appearance of the Members or Constituent parts of it; and who they were in other full Conferences or Parliaments, may be seen in the following instances.

The meaning of *Solennitate Completa*.

A

Convenerant Regia submonitione convocati Londinum Magnates totius regni Archiepiscopi, Episcopi, Abbates, Priores, Comites & Barones. There met at *London*, by the Kings Summons, the great Men of the whole Nation, the Arch-Bishops, Bishops, Abbats, Priors, Earls, and Barons, and this Meeting was so full and great, that these Orders particularly, and no other men whatsoever mixed with them, or mentioned to be in the same Assembly, are are called the Common Unibersity.

Ibid. fol. 639. n. 20.
An. D. 1244.
28 Hen. 3.

B

Medio Quadragesima Edicto Regio convocata convenit ad Parliamentum generalissimum totius Anglicani Regni totalis Nobilitas Londini, videlicet Prelatorum tam Abbatum & Priorum, quam Episcoporum, Comitum quoque & Baronum, ut de statu Regni, &c.

Ibid. fol. 696. l. 1.
An. D. 1246.
30 Hen. 3.

C

In the middle of *Lent*, called together by the Kings Edict, the total Nobility of the whole Kingdom of *England*, met at *London*, in a most general Parliament, that is to say, the Nobility of the Prelates as well Abbats and Priors, as of the Bishops, also the Nobility of the Earls and Barons, that they might treat of the state of the Kingdom, &c. No Commons in this most general Parliament.

A most general Parliament.

D

Et postea in Angliâ in Parlamento Regis, ubi congregata fuerat totius Regni tam Cleri quam Militie generalis Unibersitas, deliberatum fuerit, ut ob reverentiam Domini Pape adhuc Nuntius, &c. And afterwards in *England*, in the King's Parliament, where there had met the general Unibersity of the Kingdom, as well of the Clergy as of the Militia, it was deliberated for the reverence due to the Lord the Pope, there should yet be a Messenger sent from that whole Unibersity, &c.

Ibid. fol. 708. n. 30.
An. D. 1246.
The Unibersity of the Militia.

E

The Historian in this place relates the continuance of the Popes exactions upon the Kingdom, and recounts what was done for the preventing of them in the last most general Parliament, which is here called the general Unibersity, as well of the Clergy, that is, Arch-Bishops, Bishops, Abbats, Priors, as of the Militia (that is) of the Earls, Barons, and Tenents in *Capite*, who held their Lands immediately of the Crown in Military Service, and who only the King summoned in his ordinary Warlike Expeditions, all other Military Men of the Nation that held of them by Mean Tenure were obliged by their Acts, and so just they were in their publick Impositions, that I do not remember they ever put more upon their Tenants *pro rata*, than they bare themselves.

What that was.

F

What

P. 141. p. 193.
* See it here
in Append. n.

As to his closing Record, concerning the Prior of *Coventry*, which he says he happily found in the * Exchequer, either he understands it not, or the Observations he makes upon it, were designed to abuse his Readers.

The Record
concerning
the Prior of
Coventry.

The Prior
had time gi-
ven him to
search for Re-
cords, &c.

* Petit. p. 142.

The Priors
Plea.

It appears by the Record, that the Prior 17 *Ed. 3^d*, was attached to answer the Service of eight Knights Fees, withdrawn and concealed from the King and his Progenitors, by the Prior and his Predecessors, ever since the 29th of *Henry* the Third. The Prior appeared by *Henry de Stretford* his Attorney, and because the Barons would be fully informed for the King by the Rolls and Remembrances of the Exchequer, of certain things touching this Business; they gave the Prior time, by consent of *William de Thorp* the Kings Serjeant, from *Hilary* Term to fifteen days after *Easter*, to make a search, which not being fully done at that time, he had a day prefixed by the Court, which was the *Octaves* of *Trinity*, when it was found by search in the Roll of the 29th of *Hen. 3^d*, under the Title Aid, to marry the Kings Eldest Daughter, that is to say, XX s. of every Knights Fee, that the Prior of *Coventry* rendred account of Ten Pounds for ten Knights Fees. And in the great Roll of the 32th of the same King, Intituled, The Aid of the Bishops, Abbots, Priors, granted to marry the Kings Sister to the Emperor *Frederick*, that is to say, of every Knights Fee two Marks, the Prior of *Coventry* rendred an account of twenty Marks for the same. From whence it is evident he held Ten Knights Fees of the King: In the Explication of this Record, and of this place, * these words are left out, *videlicet de quolibet Scuto duas Marcas*, which being compared with the twenty Marks the Prior accounted for in Gross, would have made out the number of Fees he held of the King. Afterwards the Prior and Convent in the Tenth of *Edward* the First, acknowledged the Service of two Knights Fees, in an Expedition and Service summoned against *Wales*, and compounded or fined for that Service in the Exchequer. In the 31th of the same King, the same Prior and Convent acknowledged the same Service of two Knights Fees in an Expedition against *Scotland*, and compounded or made fine for them in the Exchequer forty Pounds. In the 34th of the same King, upon the same Recognition, he made Fine in the Exchequer forty Marks, and upon the same Recognition or Acknowledgment of the Service of two Knights Fees only, in the Seventh of *Edward* the Second, the same Prior compounded with, or made Fine to the King Forty Marks.

Upon which search so made, and what was found in the Rolls produced in Court: The Prior Pleads, and says, that he and his Predecessors held all his Lands and Tenements, as well those he had in Demeasn, as those in Service, by the Service of two Knights Fees only; and that the King or his Progenitors, were never seised of any other Services from the Prior or his Predecessors, to be performed by Fine, or the Service of the Bodies of men, as it may appear by this Search. And for that it was found in the Rolls of *Henry* the Third, that the Prior of *Coventry* had accounted for several Sums, to make his Son Knight, and to marry his Sister; this ought not to prejudice him, for he says, those Aids were not, nor could be accounted Services, and

and were certain *Subsidies* granted by the Great Men and Community of the Kingdom, on *meer free Will*; And desires Judgment, whether, if he held all his Lands and Tenements, by the Service of two Knights Fees only; and it not being found in the Exchequer, that the King or his Progenitors ever were seized of any other, or more Services, by the hands of the said Prior, or his Predecessors, he ought to be *impeached or challenged* for any Fee or Service concealed.

- A Whereupon, the Kings Serjeants took time to deliberate upon their Answer, and the Prior had day given him, from Term to Term, until Michaelmas-Term in the Twentieth year of Edward the Third, above two years.

Will de Thorpe, and John de Stafford.

Upon this Record, I shall observe, first, That the Priors Plea was false, for in the time of Henry the Second, the Prior of Coventry Certified under his Seal, that he held of the King ten Knights Fees.

Observations on the Record.

- B Prior de Coventre habet de veteri Feofamento sefatos Septem Milites & tertiam partem unius Militis, & duas quintas partes Militis, & Decimam partem Militis, & super Dominium ejus Quantum sufficit ad perficiendum Decem Milites. The Prior of Coventry hath of the Old Feofment seven Knights Fees, a third part, two fifth parts, and a tenth part of a Knights Fee; and upon his Demeasnes, as much, as will make ten Knights Fees.

Liber Rub. in Scac Tit. Warwicsire. This is the Certificate mentioned in the Record.

- C And it appears upon Record, that the Prior of Coventry Compounded with the King, for the Service of ten Knights Fees, in the 13 of Hen. 3. and that by virtue of the Kings Writ, he had Scutage of his Tenents that held of him, 40 s. of every Knights Fee.

Prior de Coventre finem fecit cum Rege ut Quietus sit hac vice de Serbitio suo cum Rege mittendo ad partes Transmarinas, in hac instanti transfratatione sua post festum St. Michaelis Anno, &c. 13. & pro habendo Scutagio suo de feodis Decem Militum, Qua de Rege tenent in Capite, scilicet de scuto tres Barras pro exercitu Regis, ad eandem Transfratationem, Et mandatum est Vicecom. Warw. & Leicestr. quod de predicto Serbitio suo pacem ei habere permittat, Et ei habere faciat Scutagium suum de predictis feodis in Balliva sua sicut predictum est 4 die Octob.

Cl 13 Hen. 3. m. 3. pro Prior de Coventre.

- E The like though not so particularly, appears upon Record in the 31 of Ed. 1. Prior de Coventr. qui finem fecit, &c. habet Scutagium suum in Com. Warw. Leycestr. Northt. Glouc. Wigorn. T. R. apud Fyndon. 19 die Junii. In these Counties Leofric the Founder of this Monastery gave unto it, twenty two Towns and an half; which might very well be rated at ten Knights Fees, at the least.

Scutage levied on the Tenents of the Prior by the Kings Writ.

Rot. de Scutag. 31 Ed. 1.

Monast. Angl. vol. 1. f. 30.

- F Further it is evident, that however the Entry was made of two Knights Fees only, yet the Composition or Fine was in respect of the Service withdrawn, and for ten Knights Fees, which was forty Pounds, and forty Marks, that is four Pounds, and four Marks for each Fee, which was also a great or perhaps the greatest Rate ever set upon one Expedition: such Sums as twenty Pounds, and twenty Marks a Fee, not being to be found upon any of the Chequer, or Scutage Rolls, or perhaps ever known or heard of.

P. 144.
Negligence of
the Kings Ser-
jeants.

Secondly, I shall observe, That if this *Plea* was allowed, as our Author says it was, the *Kings Serjeants* were very negligent, or ignorant in affairs of the Chequer, or both, and minded their own business of getting Money, more than the Kings; for it doth not appear by the *Record*, that either they searched the *Rolls* themselves, or set any other to search them for the King, but trusted the Prior of *Coventry*, or his Agents to do it. Then for the several *Fines* and *Compositions* for two Knights Fees, at forty Pounds, and forty Marks, at several times, if they had understood the way of proceeding in the *Exchequer*, there were never any such Sums as twenty Pounds, and twenty Marks paid for a *Fine* or *Composition* for one single Expedition, and for one Knights Fee; and that therefore they must have known, such a great *Composition* or *Fine*, was for *Service withdrawn*, and for more Fees than two, nay for ten at least according to the rate of *Fines* in those times, and so would have rejected the *Plea*.

Tenents of
the Prior
Taxed as the
Tenents of
others Ten-
ents in Ca-
pite.

Thirdly, I shall observe, That the *Tenents* of the Prior, as the *Tenents* of other *Tenents in Capite*, were Charged, and Taxed by the *Kings Writ*, by reason of his *Prerogative*, and Original right in *Military Fees*, as plainly it is manifest, beyond all doubt, by the *Record* of the 13th of *Hen. 3.* before cited, relating particularly to this matter, and also from many other *Records* produced to prove the same, where we have Discoursed of the *Barones Regis & Regni*: and that therefore the *Tenents* of the Prior did not grant any *Ayds* in *Parliament*, as well as the Prior himself, as this Writer most ignorantly, and ridiculously affirms; So that this *Record* and the falsity of the Priors *Plea* being truly understood, his *Deductions* from and *Observations* upon it are false and groundless.

P. 144.

And now I have done with his Book, it will be necessary to deliver matter of Fact, concerning this famous *Parliament*, summoned to meet on the Octaves of *Hillary*, or the 20th of *January*, 49th of *Henry* the Third, by which any man may understand what it was, and how it was called. But to clear the way to it, something must be said what was done some years before. There never was any great kindness between the King and *Simon Montfort Earl of Leicester*, since he first Corrupted and then Married his Sister *Alienor* Widow of *William Marshall Earl of Pembroke*, by which Marriage not only the King, but all the *Nobility* was dissatisfied; whereupon he gathered up a great Sum of Money, and went to *Rome* to get his Marriage confirmed, which by the *Clergy* and *Nobility* of *England* was accounted unlawful, she having before vowed *Chastity*. At *Rome* by *Bribery* (notwithstanding the *Arch-Bishop* of *Canterbury* had signified the truth to the *Pope*) vouching the Kings consent, though utterly ignorant of his intentions, he got the Marriage confirmed; and though the King heaped many favours upon him, yet there never was true affection between them; and after a great falling out between him and the Kings half Brother by the Mother, *William de Valentia*, he took all occasions through him and his three Brothers, *Guido*, and *Geofrey de Lusignan*, and *Athelmar* or *Adomar Bishop* Elect of *Winchester* (to whom the King used more indulgence than was seasonable at that time) to wound the Kings Reputation.

Montfort Cor-
rupted the
Kings Sister
before he
Married her.
Paris fol. 468.
n. 40.
Ibid. fol. 471.
n. 10, 20.
Ibid. fol. 497.
n. 50. 498. lin.
1. &c.
Pat. 42 *Hen. 3.*
m. 9.

In

- In the year 1258. there was a *Parliament* called at *London* on *Tuesday* being *Hokeday*, which is on the *Quindene* of *Easter*, that is, *Tuesday* fortnight after *Easter Tuesday*. The King called it about the *Businels* of *Apulia*, and expected Money from it to proceed in that *Affair*; but instead of that he met with nothing but *Altercations* and *Debates*, and *Enumerations* of *Grievances*, and *Complaints* against himself, that slighting the *keys* and *power* of the *Church*, he did not observe the *Tenor* of the *great Charter*, that he had raised to *Dignities* and *Riches* his half *Brothers*, intolerably against *Law* and *Right*, as if they had been the natural *People* of the *Land*, and although the *Pride* of all the *Kings* *Brothers*, and other *Poictouvins* was intolerable, yet *William de Valentia* exceeded them all. *Simon Montfort* perceiving the dissatisfaction of several of the great *Men* in this *Parliament*, strikes in for his share in the *Reformation*, and immediately to the last words the *Historian* subjoins: from whence chiefly the *Earl* of *Leycester* complained very heartily, yet not to the *King*, but to the *Univerfity*, calling for *Justice*. And the *King* was upbraided that he promoted, and enriched all *Aliens*, and slighted and wasted his own *People*, to the *Subversion* of the whole *Kingdom*, and was then also checked that he could not repel the injuries of the *pitiful Welſh*. After these *wranglings*, the *Parliament* was adjourned to the *Feaſt* of *St. Barnaby*; and then to be held at *Oxford*. But during the recess we may note, notwithstanding the complaint against *Aliens*, *Montfort* himself was an *Alien* and *Stranger*, a *French man*, born of *French Parents*. He was younger *Brother* to *Almaric*, at this time *Earl* of *Montfort* in *France*, who was *Son* to *Simon*, and he *Son* to *Almaric*, who was *Baſtard* to *Robert King* of *France*, and had the *Town* of *Montfort* given him, &c. from whence his name; and had gotten here in *England* as much *Wealth* as the best of them by the *Kings* favor and bounty.
- Barnaby* day being come, the great *Men* and *Nobles* of the *Land*, haſtned to the *Parliament* to be held at *Oxford*, and commanded all ſuch as ought them *Military Service*, to go along with them, ſo prepared, as if they were to defend their *Bodies* from attempts of their *Enemies*, and they did ſo, palliating their coming thus armed under pretence of going against the *Kings* *Enemies* the *Welſh*, and withal fearing as they pretended, that the *King* and his *Brothers* the *Poictouvins* ſhould bring in foreign *Aſſiſtance* against them, and therefore they placed *guards* upon the *Ports*; and being met, observing their *Force*, they there made certain *Proviſions* or *Statutes*, as they called them, for the *Reformation* of the *State* of the *Kingdom*. They require,
1. The *Kings* *Confirmation* of the *Charter* of *Liberties* granted by *King John*.
 2. That there ſhould be 24 perſons choſen, which by the *Kings* *Commiſſion* ſhould take upon them the *Government* of the *Kingdom*.
 3. They ſhould choiſe the *Juſtices*, *Chancellors*, *Treafurers*, and other *Officers* and *Miniſters*, from year to year for ever.
 4. That

Paris 963. n. 40.

Ibid. 968. n. 10. Grievances and Complaints against the King. And against his half Brothers.

Ibid. lin. 15.

Leyceſter calls for Juſtice.

Ibid. n. 20.

Dugd. Baron. Tom. 1. fol. 751. col. 2. Montfort an Alien a French man born.

Paris 970. n. 40. The Parliament at Oxford, 42 H. 3.

Ibid. n. 50.

Mat. Weſtm. fol. 391. lin. 4. n. 10.

Oxford Proviſions.

4. That they by themselves or friends should have the Custody of the Kings Castles.

5. That all Aliens should be Banished the Land, never to return again, except such as the well affected should permit to stay.

Ibid.
Paris, fol. 971.
n. 20, 30.

And threaten the King and Prince Edward with perpetual Imprisonment if they submit not, and swear to the performance of them; And they by Edict made it Capital, for any of what Degree; or Order forever to refuse to consent to them. And against such also the Arch-Bishops, and Bishops of the Kingdom pronounced Excommunication.

A

Ibid. n. 40. &
fol. 973. n. 10.

John Earl of Warren, William de Valentia, and the other half Brothers of the King, refuse the Oath, and are forced out of England; the Ports are commanded by the Barons to be more strictly guarded, as also the Gates of London to be strengthened, and shut every night. Then they appoint Hugh Bigod, *Militem strenuum & Legum terra peritum Justiciarie*, and break up their meeting; soon after they send their Agents to London; who in a full meeting of the Citizens in the Guild-Hall, demand of them whether they would immutably adhere unto, and faithfully obey the Statutes of the Barons, and manfully resist such as should oppose them, and likewise give them effectual assistance; whereunto they freely consented, and bound themselves by a Chart, or Charter, sealed with the Publick Seal of the City.

B

Ibid. fol. 974.
lin. 1.

July 22.
The Londoners consent to bind themselves by their Seal to observe the Oxford Provisions.

Ibid. n. 20.

Paris, a great Favourer of Montforts and the Barons Cause, says, That Fulco Bishop of London, because he would not joyn with them, was more tepid, and remiss, than became him, and incurred the Anger of the Barons, because he believed he might Justifie the King to the People. Not long after this Bishop died of the Plague, of whom the same Author says, he was *Vir Nobilis & Magna generositatis, & nisi paulo ante in Communi Baronum provisione titubasset, totius regni anchora & clypeus stabilitatis & defensionis*. A Noble Person, and of great Generosity, and unless a little before he had tripped in the Provisions of the Barons, he had been the Anchor of the whole Kingdom, and the Shield of Stability, and Defence.

C

Ibidem, 987.
n. 50.

These Provisions which were ordered by the Barons to be declared and expounded to the People by the Itinerant Justices of their own appointing, in their Circuits, were the foundation of all the ensuing Mischiefs: for the King finding himself Unkinged by them, and the Barons so stiff, as they would not yield in the least; he procured of the Pope Absolution from his Oath, and then took upon him the Government again, and turned out of their places the Barons Justiciary and Chancellor, and went about to his Cities, and Castles, encouraging them to stand to him.

D

The Provisions Ordered to be declared to the People.
Mar. Westm.
fol. 370. n. 10.

Paris, fol. 991.
n. 40, 50.
The King turns out the Barons Justiciary, and Chancellor.
West. fol. 379.
n. 20. & 380.
n. 40.

E

He likewise sent about his own Justices Itinerant through England, to whom the Barons opposed themselves, and encouraged the People not to appear, or bring any business before them, because, according to their Provisions they were to set in one County but once in seven year. The King proceeds, and placeth new Sheriffs

F

in every County, removing such as the Barons had made Sheriffs, who resolving to make good the Oxford Provisions, by the Counsel and Assistance of Simon Montfort, Armed themselves, and on a sudden, when they thought not of it, fell upon the Aliens, the Kings Counsellors, and all they knew adhered to him, and in a Hostile manner seized upon their Estates, Places of Strength, Towns and Goods.

Ibidem, 382. n. 40. And the Sheriffs made by the Barons.

A When these things were done, the King was in the Tower of London, and seeing himself surrounded with his Enemies, He consented to a Peace with the Barons upon these Terms.

Ibidem, fol. 383. n. 20. Paris, 992. n. 40. 50. An. Dom. 1264. W. R. 383. n. 30.

First, That Henry, Son to the King of Almaine, should have his Liberty.

B Secondly, That the Kings Castles should be put into the hands of his Barons.

Paris, 993. n. 1. An. Dom. 1264.

Thirdly, That the Statutes and Provisions of Oxford should be inviolably observed, as well by the King as others.

Articles of Peace.

C Fourthly, That all Strangers, except such as the Well-Affected should think fit, should presently avoid the Nation, never to return again.

D But the King having some Advantage, and most of the Twenty Four being willing the Provisions of Oxford should be made less rigid, and more easie to him, both Sides Referred their Differences to the King of France, who Nullified the Provisions of Oxford; but by evacuating them, he did intend altogether to Abrogate King John's Charter, upon which Exception, Montfort and others took advantage, and said, The Provisions were founded upon that Charter, and therefore would not submit to the King of France his Sentence.

Mat. West. fol. 391. n. 40.

Paris, 992. n. 10. Ibidem.

Ibid. Montfort refused to submit to the King of France his Sentence.

E From that time, Henry, Son to the King of Almain, Roger de Clifford, Roger de Leybourn, John de Vallibus, Hamo le Estrate, and many other Barons left Montfort, and Roger de Mortuo Mari, who ever was true to the King, wasted his Lands and Estate; But he Confederating with Leolin Prince of Wales, sent an Army thither that Invaded, Destroyed, and Burnt the Lands and Estate of Roger. The Londoners also Destroy and Burn the Estates of such as adhered to the King, and Imprison the Barons of the Exchequer, and Justices of the Bench; while the King, by the Assistance of the Barons that adhered to him, took Northampton Town and Castle, with Fifteen of the Rebellious Barons in it.

Ibidem, fol. 992. n. 20. Some of the Barons revolt from Montfort.

Ibidem, n. 30. Mat. Westm. 385. n. 20.

The Londoners Imprison the Judges. Paris, fol. 993. lin. 1. &c.

F The War thus begun, and the Earl of Leicester being made General, to delude the People, the Earl of Clare and Gloucester joining with him; They sent Letters to the King, professing their Loyalty to him, and affirming, that they did thus put themselves into Arms, as well against his Enemies, as their own.

Ibidem, fol. 994. n. 20. The Barons write Delusive Letters to the King.

To

Ibidem, n. 30.
The Kings Answer
to the
Barons Letters.

To which the *King* returned, That their *Intentions* were not according to their *Professions*, nor their *Actions* according to their *Pre-tences*, and therefore defied them. His Answer was dated at *Lewes*, May 12. 48 *Hen.* 3. 1264.

Ibidem, n. 40.

Ibidem, fol.
995. l. n. 3.

In like manner, *Richard King* of the *Romans*, *Prince Edward*, and all the *Barons*, and *Knights* that adhered to the *King*, Wrote to them, and defied them, but withal provoked them to stand to the *Judgment* of the *Kings Court*, to which they were ready to submit, and make their *Innocence* appear. These Letters were Dated the same day.

A

Ibidem, n. 10.

At this time
at least
360000 l.

After this the *Rebellious Barons* sent *Henry Bishop* of *London*, and *William Bishop* of *Worcester* their Mediators for Peace, to the *King*, and offered, for *Damages* done by them through the *Kingdom*, 300000 l. so that the *Statutes* of *Oxford* might stand good.

B

Ibidem, n. 20,
30.

The Battel of
Lewes.

Ibidem, n. 40,
50.

Ibidem, & fol.
995. l. 1. & n.
10.

The *King* not accepting their Offer, they March toward *Lewes* in *Sussex*, where he then was, who hearing of their coming, advanced toward them; The *Battel* being joyned, *Prince Edward* ingaged the *Londoners*, and beating them, made too great a Pursuit, so that before his return, the other part of the *Kings Army* was routed, and his Father having his Horse killed under him, was, with *Richard King* of *Almain*, taken *Prisoner*, and many other *Barons*;

C

Ibidem, n. 10.
Montfort offers a Treaty.

but still the *Castle* making a stout defence against the *Barons*, at which the *Prince* took Courage, and rallied his Forces, with design to try the fortune of another *Battel*, which *Montfort* and his *Confederates* perceiving, they sent Mediators for Peace, promising the next day they would effectually Treat of Peace, which was done by the Mediation and Entercourse of the *Fryers Preachers*, and the *Fryers Minors*, between both Parties, and the issue was this. That both Parties should apply themselves to the *King* of *France*, and procure him to choose three *Prelats*, and three *Noblemen* of *France*,

D

Mat. Westm.
fol. 39. n. 40,
50.

which six should nominate two *Frenchmen*, who coming into *England*, should choose a third Person, an *Englishman*; which three should determine all Controversies between the *King*, and *Barons*, and order all things concerning the *state* of the *Kingdom*. And for the Confirmation of this, both Parties took their Corporal Oaths, and there being an Instrument made of it, the *Kings Seal*, and the *Seal* of the *Barons* was affixed to it. And in the mean time *Prince Edward*, and *Henry* the eldest Son of the *King* of *Almain*, remained

E

This Instrument is called, The *Mise* made at *Lewes*.

Pat. 48 *H.* 3.
m. 6. Dors.
Prince Edward an Hostage for Peace.

Paris, fol. 996.
n. 40.
Montfort grows averse to Peace.
Ibid.

Hostages with *Montfort*, upon hopes of Peace, and a Deliberate Treaty about the Provisions at *Oxford*, and such things as might be found expedient for the quiet and safety of the Nation. But when *Montfort* had *King Henry*, his Brother *Richard King* of the *Romans*, their Sons *Edward* and *Henry*, and many others of the *Nobility* Prisoners, and carrying about with him the *King* and *Prince*, until he had taken in all the Strong *Forts*, and *Castles* of the Land, he grew more averse, and difficult to treat of the Form, as it had been agreed at *Lewes*; And then making *King Richard* Prisoner in the *Tower*, he sent *Prince Edward* and his Cousin *Henry* to *Dover-Castle*, but carried the *King* about with him where ever he went, and spoiled all those that faithfully adhered to him, or that at any time had served him, of all their moveable Goods.

F

Mat. Westm.
fol. 394. lin. 2.

And,

- And, *posthac convenientibus Londini Prelatus, Comitibus, & Baronibus, patris illius quæ Regem suum tam seditiose tenuit captivatum, compromissi Lewensis & prestiti Juramenti, imò sue salutis immemores, ad Novas Ordinationes Regni se convertere Curaverunt*; After these things the Prelats, Earls, and Barons of that Part, which seditiously held their King Prisoner, met at London, and unmindful of the Compromise at Lewes, the Oath they had taken, and their own Salvation, they bethought themselves of New Ordinances for the Government of the Kingdom; they Ordained, *Inter cætera statuerunt quod duo Comites, & unus Episcopus ex parte ipsius Communitatis Electi, Novem personas eligerent, quorum tres Regi assisterent, & de Consilio eorum trium, & Novem, tam in Domo Regia quam in Regno procederent Universa; & quod à Rege, sine illorum saltem trium Consilio, aliquid fieri non valeret*. Among other things, that two Earls, and one Bishop, elected by the Community; should choose Nine Persons, of which three should assist the King, and by the Counsel of those Three, and Nine, all the Affairs, as well of the Kings House, as of the Kingdom, should be directed, and that what the King should do without the Advice of them, at least of the three, should signifie nothing. *Sicque Comitibus Leicesterie, & Globernie, & Episcopo Cicesterensi* (who promised, all that Fought stoutly against the King, and were killed in the Battel of Lewes, immediate entrance into Heaven) *Consiliariis & Capitaneis ordinatis*. And so the Earls of Leicester, and Gloucester, and Bishop of Chichester, were ordained the three Chief Counsellors.
- Then *threatning* the King they would choose Another, and the Prince, to keep him perpetually in Prison, *Commento fraudis consentire coacti sunt*, they were compelled to Consent to this Cheat. To which, being drawn up into an Instrument, the Bishops, Earls, and Barons, set their Seals. The Record says, *Hæc autem Ordinatio facta fuit in London de consensu, voluntate, & præcepto Domini Regis nec non Prelatorum, Baronum, ac etiam Communitatis presentis. In cuius Rei Testimonium Domini, R. Lincoln, & Hug. Elien. Episcopi R. Com. Norf. & Mir. Angl. Rob. de Uer. Com. Oxon. Humfr. de Bohun, William de Monte Canisio, & Bajor Lond. Signa sua huic Scripturæ apposuerunt. Actum in Parlamento London. Mense Junii, An. Dom. 1264.* That is,
- This Ordination was made in London, by the consent, and good liking, and command of the King, and also of the Prelats, Barons, and the Community present. In witness whereof the Lords Bishops, R. of Lincoln, and Hugh of Ely, R. Earl of Norfolk, and Marshal of England, Robert de Vere Earl of Oxford, Humphrey de Bohun, William de Montchensy, and the Mayor of London, have set to their Seals. Done in the Parliament at London, in the Month of June, 1264.
- Having contrived and perfected these Ordinances, they sent Letters to the Bishop of Sabine Cardinal, and then the Popes Legat in France, and to the Illustrious King of France, that they would utterly Annul the Compromise made at Lewes, and establish this new Peace made by an Amicable consent of both Parties; And the Bishops

Ibidem, lin. 3

No Commons here though in the Record 'tis said, Et communitas prefate, as before is noted.

Ibidem, lin. 6

This exactly agrees with the Record before cited, Pat. 48 Hen. 3. m. 6. Dors. Two Earls, and one Bishop to choose Nine Persons to Govern the Kingdom.

Ibidem, n. 10 Paris, fol. 295 n. 20. He forgot Purgatory. Pat. 48 Hen. 3. m. 10.

Mat. Westm. fol. 394. lin. 13

Pat. 48 Hen. 3. m. 6. Dors. See here before in this Book. Witnesses to the Instrument of Government. nt.

Concerning this Parliament, and these Men, see before in this Book.

Mat. Westm. fol. 394. lin. 16.

Ibidem, lin. 18, 19.

They use
means to the
Legat to
Confirm the
Instrument of
Government.

Reformation
of the State
of the King-
dom.
What this
Peter Mont-
fort was, see
before in this
Book.

Pat. 48 Hen. 3.
m. 4. Dorf.

The Kings Pa-
tent, &c.

Paris, fol.
1001. n. 40.

Pat. 49 Hen. 3.
m. 6.
He began his
Reign, Octob.
19. 1216.
Montfort ex-
torts a Grant
of th: Earl-
dom of Che-
ster from the
Prince.

Pat. 48 Hen. 3.
m. 11.
The Earl of
Gloucester
gets the E-
state of John
Warren Earl of
Surrey.

Pat. 49 Hen. 3.
m. 26.
Peter Mont-
fort gets a
great Estate,
and the Prin-
ces Lodgings.
Ibidem, m. 20.
They send out
Writs in the
Kings Name
to Summon a
Parliament.

Bishops of London, Winchester, and Worcester, and some others of the Province of Canterbury, earnestly beseeched the aforesaid Legat, that he would be very ready to promote that Peace. And not long after, viz. on the Saturday after the Nativity of the Blessed Virgin, which is September the 8th, the Bishops of London, Worcester, and Winchester, with Hugh Despencer, Justiciary of England, Peter Montfort, and Richard de Mepham Arch-deacon of Oxford, were constituted Procurators, and Commissioners, to Treat in the Presence of the Magnificent Prince, the Illustrious King of France, and the Venerable Father, G. Bishop of Sabine, and Legat of the Apostolick See, or either of them, about the Reformation of the State of the Kingdom of England, with Power to do whatever they thought fit in this matter, with a special Clause of Power to Peter Montfort, that what he should Sware to, the King must be obliged to it.

Rex omnibus, &c. Salutem. Noverit Universitas vestra quod Nos Ordinamus & constituimus Ven. Patr. H. Lond. W. Wigorn. & J. Winton. Episcopos. Et Nobiles viros Hug. Dispensatorem Justiciar. Angl. & Petr. de Monteforti & Magistrum Ricardum de Mepham Archidiacon. Oxon. procuratores & Nuntios Nostros, &c. as it is Translated verbatim. Dat. apud Cantuar. Die Sabbati prox. post festum Nativitatis Beata Virginis, An. Dom. 1264.

The Intent of all this Address to the Legat was no other, than to palliate these Practices towards the King with fair and specious Pretences to the Pope, lest he should thunder out his Curfes (as he did afterwards by his Legat Ottobon) against them.

While these Barons were in this Power, Montfort extorted from the Prince a grant of the Inheritance of the Earldom and Honor of Chester, with its Appurtenances; and caused another Patent, dated December 24, to be Sealed in the Kings Name for ratifying of it. He passed also on the 20th of May following another Patent of that Earldom and Honor, as also of the Castle, and Honor of Pec. with the Castle, and Town of Newcastle Underline in Staffordshire, to himself and Heirs.

Nor was the Earl of Gloucester unmindful of himself, for he procured a Grant of all the small Estate of John de Warren Earl of Surry, who had faithfully adhered to the King, lying in England, except the Castles of Rigate, and Lewes.

Nor did Peter Montfort forget to enrich himself, for having obtained the Government of Whittenton Castle in Shropshire, and of Hereford Castle, and other things of value; for a further convenience in his high trusts, he procured a Grant of Prince Edwards Lodgings at Westminster.

After these Great Things done, and a New Government was framed, and set up, they sent out Writs in the Kings Name unto divers Bishops, Abbats, and Priors, and to such of the Noblemen, as were of their own party. To the Sheriffs of Counties, Cities, Burghs, and the Cinque-Ports.

The

The first was to the Bishop of *Durham* in this Form.

- A *Henricus Dei Gratia Rex Angliæ, Dominus Hiberniæ, & Dux Aquitaniæ; Ven. in Christo Patri R. eadem gratiâ Episcopo Dunelmensi, Salutem. Cum post graviaurbationum discrimina dudum habita in regno nostro, Charissimus filius Edwardus Primogenitus noster pro pace in regno nostro asscurandâ & servandâ Obses traditus Extitisset; & jam sedatâ (Benedictus Deus)urbatione prædictâ super deliberatione ejusdem salubriter providendâ, ac plenâ securitate, tranquillitate & pace ad honorem Dei & utilitatem totius Regni nostri firmandâ & totalitèr complendâ, ac super quibusdam aliis regni nostri negotiis, quæ sine consilio vestro, & aliorum Prælatorum & Magnatum nostrorum volumus expediri, cum eisdem tractatum habere nos oporteat, vobis Mandamus rogantes in fide, & dilectione quibus nobis tenemini, quod omni*
- B *Occasione post-positâ, & negotiis aliis prætermisissis, sitis ad nos Londini in Octavis Sancti Hillarii proximè futuris nobiscum, & cum prædictis Prælatis, & Magnatibus nostris quos ibidem vocari fecimus super præmissis tractaturi, & Consilium impensuri. Et hoc sicut nos & honorem nostrum & vestrum, nec non & Communem Regni nostri tranquillitatem diligitis, nullatenus omittatis. Teste Rege apud Wigorniam, 14 die Decembris.*
- C *Henry, By the Grace of God, King of England; Lord of Ireland, and Duke of Aquitain, to the Venerable Father in Christ, R. by the same Grace Bishop of Durham, Greeting, Whereas, after great Troubles and Confusions in our Kingdom, Our Eldest Son Edward was delivered an Hostage for the securing and establishing Peace. And the said Troubles (Blessed be God) being now over, for the delivery of him out of Prison, and the settling of a full Security, Tranquillity and Peace, to the Honor of God, and the profit of the whole Kingdom; and for transacting some other business of the Kingdom, which without your Counsel, and the Counsel of others of Our Prelats and Great Men, we would not dispatch, and with whom we ought to Treat. We command you, requiring, that in the Faith and Love by which you are bound to us, that every occasion being post-poned, and all business laid aside, you be with us at London, in the Octaves of St. Hillary next coming, to Treat with Us and Our Prelats, and Great Men, which we have caused to be called thither, and to give your Advice upon the Premises; and this as you love Us, Our Honor, and your own, and also the Common Tranquillity of Our Kingdom, ye may in no wise omit.*

Cl 49 H. 3.m.
11. Dors. in
Schedula.
The Writ.

He began His
Reign, Octo-
ber 19. 1216.

The Writ of
Summons,
49 Hen. 3.

These Octaves
are Jan. 20.

Witness the King at *Worcester*, 14th day of *December*.

F

Q

Eodem

Eodem modo Mandatum est.

E *Piscopo Carleol.*
Abbati Sanctæ Mariæ Ebor.
Priori Dunelm.
Priori Sanctæ Trin. Ebor.
Abbati de Seleby.
Abbati de Furnes.
Abbati de Fontibus.
Abbati de Ryeval.
Abbati de Melfa.
Abbati de Rupe.
Abbati de Bellalanda.

Priori de Bridlington.
Priori Sancti Oswaldi.
Abb. de Rufford.
Pr. de Blida.
Pr. de Thurgarton.
Pr. Carleol.
Abb. de Whiteby.
Pr. de Gifeburn.
Archiepisc. Ebor.
Priori de Parco.
Decano Ebor.

A

B

Eodem modo Mandatum est subscriptis, viz.

E *Piscopo London.*
Episc. Winton.
Episc. Oxon.
Episc. Wygorn.
Episc. Lincoln.
Episc. Elien.
Episc. Sarum.

Episc. Cov. & Litch.
Episc. Cicester.
Electo Bathon. & Well.
Decano Exon.
Decano de Welles.
Decano Sarum.
Decano Lincoln.

C

Four of these Bishops were Excommunicated by the Pope for their Rebellion, *London, Winton, Worcester, and Chichester*; and surely they were notable Rebels that he would Excommunicate; and two others of them, *Lincoln* and *Ely*, were Parties to the *New Instrument of Government*, and the rest no doubt of the same Batch.

D

In forma prædicta Scribitur Abbatibus & Prioribus subscriptis sub hac data. Teste Rege apud Wodstoke 24 die Decembris.

A *Abbati Sancti Edmundi.*
Abbati de Waultam.
Abbati de Sancto Albano.
Electo de Evesham.
Abb. Westmonasterii.
Abb. Glaston.
Abb. de Reading.
Abb. de Cirencestre.
Abb. de Waverle.
Priori Eliensi.
Pr. Norwicensi.
Pr. de Merton.
Abb. de Ofeney.
Pri. S. Fridswid, Oxon.
Abb. de Messenden.
Pr. de Lanton.

Abb. de Bello.
Priori ordinis de Semprinham.
Pr. de Walton.
Pr. Hospitalis St. Johan. Hierusalem in Angliâ.
Magistro Militiæ Templi in Angliâ.
Abbati de Ramesie.
Abb. de Burgo.
Abb. de Thorney.
Abb. de Crowland.
Abb. Cestriæ.
Abb. Salop.
Abb. de Hulmo.
Abb. de Bardenei.
Abb. de Colcestre.

E

F

Priori

A	Priori de Dunstable.	Abb. de Tame.
	Abb. de Bello loco.	Pr. de Bermondsei.
	Abb. de Parco Ludæ.	Pr. de Bernwell.
	Abb. de Stanleigh.	Abb. de Morevall.
	Abb. de Lilleshull.	Abb. S. Augustini Bristoll.
	Abb. de Biltlesden.	Abb. de Malmesburie.
	Priori de Bevoir.	Abb. de Michelnei.
	Priori de Lewes.	Abb. de Abindone.
	Abbati de Clerevaus.	Abb. S. Petri. Glouc.
	Priori de Stodeley.	Abb. de Persoure.
	Abb. Sancti Augustini Cantuar.	Abb. de Wynchecomb.
	Abb. de Certesey.	Pr. de Conventre.
	Pr. S. Trinit. Cantuar.	Pr. de S. Neoto.
	Abb. de Hida Wynton.	Pr. S. Swithini Wynton.
	Abb. de Middleton.	Abb. de Lesnes.
B	Abb. de Cerne.	Pr. de Leedes.
	Abb. de Abbotsburie.	Pr. de Landa.
	Abb. de Tavestock.	Pr. de Spalding.
	Pr. de Huntingdon.	Pr. St. Barthol. London.
	Abb. de Suleby.	Pr. de Kenilworth.
	Abb. de Wardon.	Abb. de Ofulveston.
	Abb. St. Jacobi Northampt.	Abb. de Teukesburie.
	Abb. de Leicefter.	Pr. de Fintheved.
	Abb. de Kirksted.	Abb. de Middleton.
	Pr. de Eton.	Abb. de Valledei.
C	Pr. de Cruce-Roys.	Abb. de Croxden.
	Abb. de Kirkstall.	

D The Reason why there was so many Abbats and Priors Summoned, was, becaule he thought himself sure of them ; he was a Great Zealot, and a Godly Man in those times, a Great Minion of these Religious Men (as then called) as also of the Bishops and Clergy, and they at least seemingly Great Favorites of his, Paris, fol. 995. 10. 998. 30.

Item in formâ prædictâ mandatum est Comitibus & aliis subscriptis.
Dat. apud Wodestoke viceffimo quarto die Decembris.

E	Comiti Leiceff.	Johanni de Vefci.
	Comiti Gloucestr.	Radulpho Basset de Drayton.
	Comiti Norfolciæ, & Marefcallo Angliæ.	Henrico de Haftings.
	Comiti Oxon.	Galfrido de Lucy.
	Comiti Derb.	Roberto de Ros.
	Radulpho de Camoys.	Johanni de Eyvill.
	Rogero de S. Johanne.	Adæ de Novomercato.
	Hugoni le Despenfer Justiciario Angliæ.	Waltero de Colevill.
	Johanni filio Johannis.	Willielmo Marmyon.
	Willielmo de Munchenfi.	Rogero Bertram.
F	Nicholao de Segrave.	Radulpho Basset de Sapcote.
		Gilberto de Gaunt.

Eodem modo Mandatum est.

E *Piscopo Carleol.*
Abbati Sanctæ Mariæ Ebor.
Priori Dunelm.
Priori Sanctæ Trin. Ebor.
Abbati de Seleby.
Abbati de Furnes.
Abbati de Fontibus.
Abbati de Ryeval.
Abbati de Melfa.
Abbati de Rupe.
Abbati de Bellalanda.

Priori de Bridlington.
Priori Sancti Oswaldi.
Abb. de Rufford.
Pr. de Blida.
Pr. de Thurgarton.
Pr. Carleol.
Abb. de Whiteby.
Pr. de Giseburn.
Archiepisc. Ebor.
Priori de Parco.
Decano Ebor.

A

B

Eodem modo Mandatum est subscriptis, viz.

E *Piscopo London.*
Episc. Winton.
Episc. Oxon.
Episc. Wygorn.
Episc. Lincoln.
Episc. Elien.
Episc. Sarum.

Episc. Cov. & Litch.
Episc. Cicester.
Electo Bathon. & Well.
Decano Exon.
Decano de Welles.
Decano Sarum.
Decano Lincoln.

C

Four of these Bishops were Excommunicated by the Pope for their Rebellion, *London, Winton, Worcester, and Chichester*; and surely they were notable Rebels that he would Excommunicate; and two others of them, *Lincoln and Ely*, were Parties to the *New Instrument of Government*, and the rest no doubt of the same Batch.

D

In forma prædicta Scribitur Abbatibus & Prioribus subscriptis sub hac data. Teste Rege apud Wodstoke 24 die Decembris.

A *Bbati Sancti Edmundi.*
Abbati de Waultam.
Abbati de Sancto Albano.
Electo de Evesham.
Abb. Westmonasterii.
Abb. Glaston.
Abb. de Reading.
Abb. de Cirencestre.
Abb. de Waverle.
Priori Eliensi.
Pr. Norwicensi.
Pr. de Merton.
Abb. de Ofeney.
Pri. S. Fridswid, Oxon.
Abb. de Messenden.
Pr. de Lanton.

Abb. de Bello.
Priori ordinis de Semprinham.
Pr. de Walton.
Pr. Hospitalis St. Johan. Hierusalem in Angliâ.
Magistro Militiæ Templi in Angliâ.
Abbati de Ramesie.
Abb. de Burgo.
Abb. de Thorney.
Abb. de Crowland.
Abb. Cestriæ.
Abb. Salop.
Abb. de Hulmo.
Abb. de Bardenei.
Abb. de Colcestre.

E

F

Priori

A	<i>Priori de Dunstable.</i>	<i>Abb. de Tame.</i>
	<i>Abb. de Bello loco.</i>	<i>Pr. de Bermondsey.</i>
	<i>Abb. de Parco Ludæ.</i>	<i>Pr. de Bernwell.</i>
	<i>Abb. de Stanleigh.</i>	<i>Abb. de Morevall.</i>
	<i>Abb. de Lilleshull.</i>	<i>Abb. S. Augustini Bristoll.</i>
	<i>Abb. de Biltlesden.</i>	<i>Abb. de Malmesburie.</i>
	<i>Priori de Bevoir.</i>	<i>Abb. de Michelnei.</i>
	<i>Priori de Lewes.</i>	<i>Abb. de Abindone.</i>
	<i>Abbat de Clerevaus.</i>	<i>Abb. S. Petri. Glouc.</i>
	<i>Priori de Stodeley.</i>	<i>Abb. de Persoure.</i>
B	<i>Abb. Sancti Augustini Cantuar.</i>	<i>Abb. de Wynchecomb.</i>
	<i>Abb. de Certeley.</i>	<i>Pr. de Conventre.</i>
	<i>Pr. S. Trinit. Cantuar.</i>	<i>Pr. de S. Neoto.</i>
	<i>Abb. de Hida Wynton.</i>	<i>Pr. S. Swithini Wynton.</i>
	<i>Abb. de Middleton.</i>	<i>Abb. de Lefnes.</i>
	<i>Abb. de Cerne.</i>	<i>Pr. de Leedes.</i>
	<i>Abb. de Abbotsburie.</i>	<i>Pr. de Landa.</i>
	<i>Abb. de Tavestock.</i>	<i>Pr. de Spalding.</i>
	<i>Pr. de Huntingdon.</i>	<i>Pr. St. Barthol. London.</i>
	<i>Abb. de Suleby.</i>	<i>Pr. de Kenilworth.</i>
C	<i>Abb. de Wardon.</i>	<i>Abb. de Osulveston.</i>
	<i>Abb. St. Jacobi Northampt.</i>	<i>Abb. de Teukesburie.</i>
	<i>Abb. de Leicefter.</i>	<i>Pr. de Finsheved.</i>
	<i>Abb. de Kirksted.</i>	<i>Abb. de Middleton.</i>
	<i>Pr. de Eton.</i>	<i>Abb. de Valledai.</i>
	<i>Pr. de Cruce-Roys.</i>	<i>Abb. de Croxden.</i>
	<i>Abb. de Kirkstall.</i>	

D The Reason why there was so many *Abbats* and *Priors* Summoned, was, because he thought himself sure of them ; he was a Great Zealot, and a Godly Man in those times, a Great Minion of these Religious Men (as then called) as also of the *Bishops* and *Clergy*, and they at least seemingly Great Favorites of his, *Paris*, fol. 995. 10. 998. 30.

Item in formâ prædictâ mandatum est Comitibus & aliis subscriptis.
Dat. apud Wodestoke viceffimo quarto die Decembris.

E	C omiti Leicest.	Johanni de Vesci.
	Comiti Gloucestr.	Radulpho Bassett de Drayton.
	Comiti Norfolciæ, & Marefcallo Angliæ.	Henrico de Hastings.
	Comiti Oxon.	Galfrido de Lucy.
	Comiti Derb.	Roberto de Ros.
F	Radulpho de Camoys.	Johanni de Eyvill.
	Rogero de S. Johanne.	Adæ de Novomercato.
	Hugoni le Despenfer Justiciario Angliæ.	Waltero de Colevill.
	Johanni filio Johannis.	Willielmo Marmyon.
	Willielmo de Munchenfi.	Rogero Bertram.
	Nicholao de Segrave.	Radulpho Bassett de Sapcote.
		Gilberto de Gaunt.

These Earls and Barons were all in Arms against the King, as may be seen in *Mat. Paris*, *Mat. Westminster*, *Dugdales Baronage*, &c.

Item Mandatum est singulis Vicecomitibus per Angliam quod venire faciant duos milites de legalioribus & discretioribus militibus singulorum comitatum ad Regem London, in Octabis predictis in formâ supradictâ. Without date.

A

It doth not appear by the Writ, whether the *Sheriffs*, or *Counties* were to Elect and send these Knights; The *Sheriffs* then were of the Faction, and made by them, and 'tis here said only, *Quod venire faciant.*

Item in forma predictâ scribitur civibus Ebor. civibus Lincoln & cæteris Burgis Angliæ quod mittant in formâ predictâ duos de discretioribus & legalioribus & probioribus tam civibus quam Burghensibus suis. Without date.

B

Cl. 49 Hen. 3.
m. 11. Dors.
in Schedula.

Rex Baronibus & Ballivis portus sui de Sandwico, salutem. Cum Prelati & Nobiles Regni nostri tam pro negotio liberationis Edwardi Primogeniti nostri quam pro aliis Communitatem Regni nostri tangentibus, ad instans Parliamentum nostrum quod erit London in Octab. Sancti Hillarii convocari fecimus, ubi vestra sicut & aliorum fidelium nostrorum presentia plurimum indigemus. Vobis mandamus in fide & dilectione quibus nobis tenemini firmiter injungentes, omnibus aliis prætermisissis, mittatis ad nos ibidem quatuor de Legalioribus & Discretioribus portus vestri. Ita quod sint ibid. in Octab. predictis. Nobiscum & cum præfatis Magnatibus Regni nostri tractatum & super præmissis Consilium impensuri. Et hoc sicut honorem nostrum & vestrum, & communem utilitatem Regni nostri diligitis nullatenus omittatis. Teste Rege apud West. 20 die Januar.

C

D

Similiter mandatum est singulis portubus pro se.

Lastly, I will add from other Membranes of this Roll, two other Writs, the one for the *Expences* of the Knights, which were summoned to this Convention or Parliament, and the other a *second* Writ, to the Sheriff of *Shropshire* and *Staffordshire*, to send four Knights for those two Counties to the King, and Council, where ever he should be in *England*, to treat and speak with them about the *Business* of that Parliament after it was Dissolved, because he had not caused any to come before to *London* in the *Octaves* of *St. Hillary*.

E

Cl. 49 Hen. 3.
m. 10. Dors.
The Writ for
the Knights
Expences.

Rex vicecomiti Eborum salutem, Cum nuper vocari fecimus Quos de Discretioribus Militibus singulorum Comitatum nostrorum Angliæ, Quod essent ad nos in Parlamento nostro apud London in Octabis St. Hillarii proximo preteriti ad tractandum nobiscum, & cum Consilio nostro, super Deliberatione Edwardi filii nostri charissimi, & securitate inde facienda, nec non & aliis arduis Regni nostri Negotiis, ac Idem Milites moram Diuturniorem quam credebant traxerint ibidem, propter quod non Modicas fecerint Expensas, Cumque Communitates Comitatum

F

tatum Dictorum varias hoc anno fecerint prastationes ad Defensionem Regni nostri, & Maxime partium maritimarum contra hostilem Adventum Alienigenarum, per Quod aliquantulum se nimium sentiunt gravatas, Tibi precipimus quod Duobus Militibus qui pro Comunitate Dicti Comitatus prefato Parleamento interfuerunt, De Consilio quatuor Legalium Militum ejusdem Comitatus, rationabiles Expensas suas, in veniendo ad Dictum Parleamentum ibidem Morando, & inde ad partes suas Redeundo provideri, & eas de eadem Communitate levare facias, proviso quod ipsa Communitas, occasione prastationis istius ultra modum non gravetur. Teste Rege apud Westmonasterium 15 Die Febr.

A Knights had their Expences allowed, not only as Members of Parliament, but also for transacting other publick Business for the common profit of Counties in the Counties, before the King and Council, or before the Parliament. In the 42 of Hen. 3. in the Parliament, or Tumultuous Meeting, held at Oxford by prorogation, on Barnaby-day, it was Ordained, That all Excesses, Transgressions, and Injuries done or committed, as well by Justices, Sheriffs, Bayliffs, or other Persons whatsoever should be inquired into, by four Knights in every County, by Jury, or Juries, of Knights, or others, to be summoned by the Sheriffs to come before them, and the Inquisitions so made, were to be sealed with their own Seals, and the
B
C
D
E
F
Seals of the Jurors, and to be delivered by their own proper persons, to the Kings Council in Parliament at Westminster eight days after Michaelmas, and Writs issued this year to four Knights in every County to that purpose, dated on the fourth of August, who made their Inquisitions and Returns accordingly; And for their dispatch of this Business, and Attendance upon the Kings Council or Parliament, they had their Expences allowed them by the Counties, upon Writs to the Sheriffs. Rex Vicecom. Hunt. salutem; Quia dilecti & fideles nostri W. le Moyne, Walter. de Walsingham, Simo de & Baldwinus de Drayton quibusdam Inquisitionibus faciendis pro Comuni utilitate predicti Comitatus nuper attenderunt, & postea Coram Consilio nostro apud Westminster in Parlamento post festum Sancti Michaelis proxime preteritum pro dictis negotiis moram fecerunt Tibi precipimus quod predictis quatuor Militibus rationabiles Expensas suas, in Eundo, redeundo, & in prefato Parlamento, pro dictis negotiis Morando, de Comunitate dicti Comitatus habere facias. Teste Rege apud Westm. 4 die Novemb. Anno, &c. 43. From the form of these Writs undoubtedly it was, that these words (prout alias in Casu Consimili fieri Consuevit) were inserted into ancient Writs for the Expences of Knights, Citizens, and Burgesses, after the words (rationabiles Expensas suas in veniendo ad nos, ibidem Morando, & ad propria redeundo) as in Cl. 28. Ed. 1. m. 12. Dors. Cl. 29. Ed. 1. m. 17. Dors. Cl. 33. Ed. 1. m. 15. Dors. Cl. 34. Ed. 1. m. 11. Dors. Cl. 35. Ed. 1. m. 14. Dors.

Knights had their Expences allowed for dispatch of Publick Country Business though not Members of Parliament.

Rot. Pat. 42 Hen. 3 m. 3. & n. 9.

Inquisition to be made by four Knights, of Excesses and Transgressions in every County.

Claus. 42 Hen. 3 m. 1. Dors. The Writ for their Expences in the management of that Affair.

Hen. 3. began his Reign October 19.

Cl. 49 Hen. 3. m. 9 Dors. The second Writ to the Sheriff of Shropshire, &c.

Rex Vicecomiti Salop & Stafford salutem, Cum Prelatos, Magnates, & Nobiles Regni nostri, tam pro Negotio liberationis Edwardi primogeniti nostri, & securitate inde facienda, quam pro aliis Comunitatem Regni nostri tangentibus, nuper vocari fecimus Quod essent ad nos London in Quindena Sancti Hillarii proxime preterita, nobiscum supra his tractaturi, & Tibi sicut aliis Vicecomitibus nostris per Angliam preceperimus

22 of Febr.

ceperimus quod de utroque Comitatu predictorum, ad nos venire faceres ad predictos diem & locum, Duos de Discretioribus, & legalioribus Militibus eorundem Comitatum, nobiscum & cum predictis Magnatibus, ex parte Comunitate Comitatum illorum super premissis tractaturos, & Consilium suum impensuros, Ac de partibus predictis juxta Mandatum nostrum, ibidem non venerint, aliqui Milites, super Quo miramur quamplurimum, & Movemur, Tibi precipimus iterato firmiter injungentes, quod Dictos Milites ad nos venire facias. Ita Quod modis omnibus sint ad nos, a Festo Cathedre Sancti Petri, in Quindecim dies, ubi tunc fuerimus in Anglia, nobiscum, & cum Magnatibus qui sunt de Consilio nostro, super premissis negotiis locuturi, & ita te habeas in hoc Mandato nostro Exequendo, quod pro defectu tui, ad te minime Capere debeamus Teste Rege apud Westm. 23 die Febr.

A

Without the History of this Nick of Time, this Writ is not fully understood.

B

Paris, fol. 996.
n. 50.

There were in the Marches of Wales several Loyal Barons, Roger Mortimer, James Audely, Roger de Leybourn, Roger de Clifford, Haimo le Strange, Hugh Turbivile, and many others, being much troubled at the usage of the King and Prince; unanimi contra Comitatem Leycestrie insurgunt consensu; with one consent took Arms against the Earl of Leycester. These brake down the Bridges upon the River severn, and secured themselves in the Borders of Wales, on the West-side of it.

C

Westm. fol. 389.
n. 40, 50.

Montfort carries the King to Worcester. The Barons Marchers forc't to make Peace. They deliver up their Castles. The First Writ of Summons dated at Worcester.

To Reduce these, *assumpsit Secum Regem Henricum, quem habuit adeo acclivem, &c.* Montfort carried with him the Obsequious King (made so by Threats) and Marched with a great Army to Worcester: and having procured his Fast Friend Leolin Prince of Wales to come upon the back of them, they were forced to make a Peace, on condition they should leave the Nation for a year, and deliver up their Castles to Leycester, to which terms they the more readily consented, that Prince Edward might be freed of his Imprisonment.

D

The Earl of Leycester being at this time at Worcester, and having the King with him, the Writ to the Bishop of Durham, eleven other Bishops, and the Elect of Bath and Wells, ten Abbats, nine Priors, and five Deans of Cathedral Churches, was dated there as above.

E

Ibidem, 390. lin. 7. The King keeps his Christmas at Woodstock, Ibid. n. 10.

But from Worcester (all things being quiet in the Marches of Wales) the King went towards Woodstock, to keep his Christmas there.

Montfort subdued all England.

Disposeth all things at his pleasure. The King but a Shadow, he went not abroad without his Keepers.

Sed & Comes arriidente ei fortuna in omnibus, qua mente conceperat, idem festum celebravit in Castro suo de Kenelworth, &c. And the Earl, fortune favouring him in all things he had contrived, celebrated the same Feast at his Castle of Kenelworth. *Jam quidem omnis Anglia præter Aquilonem ulteriozem quæ adhuc conspiraverat contra eum, instigantibus Rege Scotia & Johanne de Baliolo, inclinata extitit ei, & subiecta, omnia per ipsum ordinata sunt, omnia Regis castra ejus ditioni sunt Commissa; Nec etiam ipse Rex qui jam Regnando quinquagesimus extiterat nisi pro umbra nominis habebatur adeo ut Terram suam perlustrare, vel peragrarare non poterat, quin in conductu & dispositione totaliter fieret alterius.*

F

A alterius. For now all England but the utmost North-part of it, which as yet held out against him, by the instigation of the King of Scots, and John Baliol, was subject to him; all things are ordered by him, all the Kings Castles are put into his hands; Nor was the King, that had now Reigned Fifty years, any more than a Shadow, so that he could not walk in his own Land without a Keeper and Guard, and under the total disposition of some other Person. And his Keepers were usually Montfort's Sons, Hugh D'espencer, and John Fitz-John, the Earl of Gloucester being excluded from the custody of him.

Ibidem, 394. n. 30.

B And then in the same form Writs were directed to fifty four Abbats more, twenty eight Priors, and the Master of the Temple, Dated at Woodstocke, December 24. At the same time also, and in the same form, Writs were sent to Sir Earls only, and seventeen Barons, all high Men of this Faction; and to the Bishop of Norwich singly a Writ was directed, Dated there December 26.

Writs of Summons dated at Woodstocke.

C What this Convention did, it doth not, that I can find any where, appear; they sate not long, for the Writs for the Expenses of the Knights and Burgeses (which are the first upon Record) bear date at Westminster, Feb. 10. It is not probable that the Prince had then his Liberty, for they talked of that almost a year, and he obtained it not until he had granted the County Palatine of Chester to the Earl of Leicester, the last Patent whereof was passed, May 20. 49 Hen. 3. and then he was only taken out of Dover-Castle, and made Prisoner at large under a Guard, as his Father was, until he made his Escape from his Keepers at Hereford Castle, on Saturday in Whitsun-Week.

Claus. 49 H. 3. m. 10. Notwithstanding the pretence of the Writ. Westm. fol. 394. n. 40. The Prince was by this Convention freed from his Imprisonment in Dover-Castle.

D The Delays, Confusion, different Form, and Dates of these Writs are new, and somewhat strange; it was not so in August and September, immediately preceding the date of these Writs. Then the Prelats and Great Men of the Faction only granted a Tenth of all Ecclesiastical Livings.

E Rex Episcopo Norwicensi. Salutem. Cum per Prelatos & Magistros Regni nostri provisum sit, & unanimiter concessum, quod Decima proventuum omnium beneficiorum in regno conferantur ad communem utilitatem Regni & Ecclesie Anglicane, &c. Teste apud Cantuar. 1 Die Septembr. & in Claus. of this year, M. 5. Dors. 4 Junii, there is a Writ of Summons in the old form to the Barons. It should seem the Process was gradual, by the different Dates of the Writs; or that they were issued upon Emergences, or as the Confidens and Well-affected were thought of. For most certainly, all these Persons were named by Montfort, and his Privado's.

Cl. 48 H. 3. m. 3. Dors.

F And without doubt, as others have conjectured before me, the danger that Simon, and his Privado's apprehended, from the concurrence of the Nobility, and their great Retinues, and the Example of his, and the Barons practices at Oxford, was the reason why they altered the Ancient Usage; and of their sending, directing, and in the Kings name commanding, the Sheriffs of each County, the Cities, and Burghs, to send two Knights, Citizens, and Burgeses respectively.

The Well-Affected thought of by degrees.

Dugd. Baron fol. 759. col. 2. The probable Cause that moved Montfort to Summon this Convention.

After

It was fought
Aug. 5. 45 H. 3.
Fol. 395. n. 20.
Paris, fol. 399.
lin. 2. Sept. 8.

The Liberties
and Priviledges
of the City
of London taken
from it.
The Rebels
Estates given
to the King.

Rot. Pat. 49 H.
3. n. 9. Dorf.

A Parliament
at Winchester,
49 Hen. 3.
wherein no
Commons.

Nor in the
Parliament
that made the
Dignum de Kenilworth
in the
50 of Hen. 3.

Tottell's Stat.
Printed 1576.
p. 15. 4.
Cok. 2. Instit.
f. 101.

After the **Battel** of **Evesham**, into which **Montfort** forced the **King**, where he was wounded. *Domino Rege violenter adducto*, says **Mat. Westminster**. *Triumphatis hostibus, Rex Potestati Regie restitutus, de consilio filii Victoris Wintoniam Parliametum convocavit, in Nativitate Virginis gloriose, ubi inito concilio, civitatem Londinensem, ob suam Rebellionem privavit suis privilegiis, & Libertatibus antiquis, &c.* The King having vanquished his Enemies, and being restored to his **Kingly Power**, by the Advice of his Son called a **Parliament** at **Winchester**, on the eighth of **September**, where the City of **London** had its **Priviledges**, and **Ancient Liberties** taken away for its **Rebellion**, &c. And also the *seisin* or *possession* of all the **Lands** and **Tenements** of the **Kings Adversaries**, and **Rebels**, and their **Adherents**, were given or restored unto him.

Rex omnibus fidelibus suis, de Comitibus Warwic, & Leycester salutem, Sciatis Quod Cum nuper unanimi Concilio & voluntate Bag-natum nostrorum apud Winton Convenientium reddita fuerunt in manus nostras seilina omnium Terrarum & Tenementorum, a quibuscunque occupatorum, de Terris adversariorum & Rebelligum nostrorum, Qui nobis manifeste adversabantur in Turbatione & Guerra nuper in Regno nostro suborta, & eisdem in Turbatione predicta manifeste adhaerentium, Constitimus dilectos & fideles nostros, Willielmum de Bagod, & Robertum de Grendon, una cum Vicecomite nostro Comitatum predictorum ad omnes Terras & Tenementa predicta in manus nostras, &c. *Teste Rege apud Winton 21 Septembris.*

This **Parliament** (as **Mat. Paris** calls it) according to the old form and usage, consisted only of the **Barons** and **Great Men**: for as he reports it, 'twas convened at **Winchester** on the eighth of **September** in the 49th of **Hen. 3.** and on the twenty first of the same Month are these **Letters Patents**, or **Writ**, dated at the same place, by which it appears, that the *seisin* and *possession* of all the **Rebells** **Lands** and **Tenements**, were given to the King by the **Council** and **Consent** of his **Great Men**, so that the **Commons** in this **Parliament** were not Represented as at this day; nor did the King according to **Montfort's** form, issue **Writs** to the **Sheriffs** of **Counties** to cause to come to him two **Legal** and **Discreet Knights**, &c.

Nor did he continue **Montfort's** method in calling **Parliaments**, as appears by that **Parliament** which was Summoned in the Fiftieth of his Reign, for the **Relief** of the **Disinherited**, and **Establishing** a firm Peace in the Nation: in which there were no **Knights** nor **Burgesses** according to future Constitution, as hath been before proved, when we treated of the **Dignum de Kenilworth**.

And is further manifest from the **Statute of Marlebridge**, made in the Fifty second of this King for the renewing, confirming, and establishing (as it were then) the Body of the Law of this Nation. The Preamble whereof runs thus; *Anno Gratia 1267. Regni autem Domini Henrici filii Regis Johannis quinquagesimo secundo in Octabis Sancti Martini, Providente ipso Domino Rege, ad Regni sui Angliae Meliorationem, & Exhibitionem Justitie (prout Regalis Officii Ex-poscit utilitas) pleniorum, Convocatis Discretioribus ejusdem Regni, tam Majoribus, quam Minoribus, Provisum est, & Statutum, ac*

concor-

concordatum & Ordinatum, &c. We see by this Preamble, that by the care and providence of the King himself, for the Melioration of his Kingdom, and the more full Exhibition of Justice, were called together the more Discreet Persons of the same Kingdom, as well the greater, as the lesser, by whom, the Provisions, Establishments, Agreements, and Ordinances in this Statute comprehended, were made.

A

Upon this Preamble I observe, first, That all the great Barons were not present at the making of this Statute, but only the more Discreet, and such as the King thought fit to call, who were Summoned always by particular Writs.

Not all the great Barons, but the more Discreet of them were at the making of the Statute of Marlebridge, 52 Hen. 3. Nor were all the lesser Barons in this Parliament, but only the more Discreet of them.

B

Secondly, That neither were all the lesser Barons, or Tenants in Capite present in this Parliament, but only the more Discreet Persons amongst them, and these called by the King, and in all probability by particular Directions: for by a general Summons according to King Johns Charter, directed to the Sheriff of each County, to Summon all the Minor Barons, and Tenants in Capite, it could not be that only the more Discreet Persons of them should be called together, nor is there in this Preamble, the least hint, or intimation of any Writs directed to Counties, Cities, or Burghs, for the choice of Members.

C

Thirdly, From the Sixth Chapter of this Statute, which was one of the chief Laws contained in it, I shall observe, That it was made per la purveance Robert Walerand, & per Commune assent des grauntz Seignours due Realme; by the procurement or forecast of Robert Walerand, and by common assent of the great Lords of the Realm. I will only note, that Robert Walerand was a Baron, a Soldier, and Lawyer, and died in the first of Edw. 1. that Britton lived at this time, and well understood the Constitution of Parliaments, and wrote the Book of the Laws of England, bearing that name, in the time of King Edward aforesaid, and by his direction, and leave the rest to the Judgment of the Reader.

The sixth Chapter of this Statute, made and procured by Robert Walerand. Britton, p. 95. b. Cok. 2. Institut. f. 109. He was a Baron, a Soldier, and Lawyer.

D

Lastly, From the whole it may be observed, That though the Learned Camden, nor his ancient Author, be of any great Credit with Mr. Selden, and some others, yet here is an old Statute, that seems to point at and discover almost the very same thing, viz. That after the horrid Confusions, and Troubles of the Barons Wars, those Earls and Barons Quibus ipse Rex dignatus est, Brevia summotionis dirigere, venirent ad Parlamentum suum, & non alii.

The Testimony of Camdens old Author made good by an old Statute.

Britan, f. 122.

F

From King Henry the Third, we proceed to Edward the First his Son, who in the beginning, and for several years of his Reign and Government, for ought what appears from several Statutes then made, and other Records, did not issue Writs, for the Election of Knights, Citizens, and Burgeffes, as at this day, but used the same way, and course of Summoning, and holding Parliaments, his Father had done before him.

Probably no Writs for the Election of Knights, Citizens, and Burgeffes were issued in the beginning of King Edward the First his Reign.

I shall begin with the Statute of Westminster the first, the Preface whereof begins thus. Ceux sont les Establishments, le Roy Edward

Tottells Stat. p. 74. a. Cok. 2. Institut. f. 156.

R

ward

It was fought
Aug. 5. 45 H. 3.
Fol. 395. n. 20.
Paris, fol. 999.
lin. 2. Sept. 8.

The Liberties
and Priviled-
ges of the City
of London ta-
ken from it.
The Rebels
Estates g ven
to the King.

Rgt. Pat. 49 H.
3. n. 9. Dorf.

A Parliament
at Winchester,
49 Hen. 3.
wherein no
Commons.

Nor in the
Parliament
that made the
Diatum de Kenilworth in the
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Tottell's Stat.
Printed 1576.
p. 15. 4.
Cok. 2. Infit.
f. 101.

After the Battel of Evesham, into which Montfort forced the King, where he was wounded. *Domino Rege violenter adducto*, says Mat. Westminster. *Triumphatis hostibus, Rex Potestati Regie restitutus, de consilio filii Victoris Wintoniam Parliametum convocavit, in Nativitate Virginis gloriosæ, ubi inito concilio, civitatem Londinensem, ob suam Rebellionem privavit suis privilegiis, & Libertatibus antiquis, &c.* The King having vanquished his Enemies, and being restored to his Kingly Power, by the Advice of his Son called a Parliament at Winchester, on the eighth of September, where the City of London had its Priviledges, and Ancient Liberties taken away for its Rebellion, &c. And also the *seisin* or possession of all the Lands and Tenements of the Kings Adversaries, and Rebels, and their Adherents, were given or restored unto him.

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This Parliament (as Mat. Paris calls it) according to the old form and usage, consisted only of the Barons and Great Men: for as he reports it, 'twas convened at Winchester on the eighth of September in the 49th of Hen. 3. and on the twenty first of the same Month are these Letters Patents, or Writ, dated at the same place, by which it appears, that the *seisin* and possession of all the Rebels Lands and Tenements, were given to the King by the Council and Consent of his Great Men, so that the Commons in this Parliament were not Represented as at this day; nor did the King according to Montfort's form, issue Writs to the Sheriffs of Counties to caule to come to him two Legal and Discreet Knights, &c.

Nor did he continue Montfort's method in calling Parliaments, as appears by that Parliament which was Summoned in the Fiftieth of his Reign, for the Relief of the Disinherited, and Establishing a firm Peace in the Nation: in which there were no Knights nor Burgeses according to future Constitution, as hath been before proved, when we treated of the *Diatum de Kenilworth*.

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CONCOR-

concordatum & Ordinatum, &c. We see by this Preamble, that by the care and providence of the King himself, for the Melioration of his Kingdom, and the more full Exhibition of *Justice*, were called together the more *Discreet* Persons of the same Kingdom, as well the greater, as the lesser, by whom, the *Provisions, Establishments, Agreements*, and *Ordinances* in this Statute comprehended, were made.

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Upon this Preamble I observe, first, That all the *great Barons* were *not present* at the *making* of this Statute, but *only the more Discreet*, and *such as the King thought fit to call*, who were Summoned always by particular Writs.

Not all the great Barons, but the more Discreet of them were at the making of the Statute of Marlebridge, 52 Hen. 3. Nor were all the lesser Barons in this Parliament, but only the more Discreet of them.

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Secondly, That neither were *all the lesser Barons*, or *Tenents in Capite present* in this Parliament, but *only the more Discreet Persons* amongst them, and these called by the King, and in all probability by particular Directions: for by a general Summons according to King *John's* Charter, directed to the Sheriff of each County, to Summon all the *Minor Barons*, and *Tenents in Capite*, it could not be *that only the more Discreet Persons* of them should be called together, nor is there in this Preamble, the least *hint*, or *intimation* of any *Writs* directed to *Counties, Cities, or Burghs*, for the choice of Members.

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Thirdly, From the Sixth Chapter of this Statute, which was one of the chief Laws contained in it, I shall observe, That it was made *per la purveance Robert Walerand, & per Commune assent des graunts Seignours due Realme*; by the procurement or forecast of *Robert Walerand*, and by *common assent* of the *great Lords* of the Realm. I will only note, that *Robert Walerand* was a *Baron, a Soldier*, and *Lawyer*, and died in the first of *Edm. 1.* that *Britton* lived at this time, and well understood the Constitution of *Parliaments*, and wrote the Book of the Laws of *England*, bearing that name, in the time of King *Edward* aforesaid, and by his direction; and leave the rest to the Judgment of the Reader.

The sixth Chapter of this Statute, made and procured by *Robert Walerand*. Britton, p. 95. b. Cok. 2. Institut. f. 103. He was a Baron, a Soldier, and Lawyer.

D

Lastly, From the whole it may be observed, That though the *Learned Camden*, nor his *ancient Author*, be of any great Credit with *Mr. Selden*, and some others, yet here is an *old Statute*, that seems to *point at and discover* almost the very same thing, *viz.* That after the horrid Confusions, and Troubles of the *Barons Wars*, those *Earls and Barons Quibus ipse Rex dignatus est, Brevia summotionis dirigere, venirent ad Parlamentum suum, & non alii.*

The Testimony of *Camden's* old Author made good by an old Statute.

E

Britan, f. 122.

F

From King *Henry the Third*, we proceed to *Edward the First* his Son, who in the beginning, and for several years of his Reign and Government, for ought what appears from *several Statutes* then made, and other *Records*, did not *issue Writs*, for the *Election* of *Knights, Citizens, and Burgeses*, as at this day, but used the *same way*, and *course* of Summoning, and holding *Parliaments*, his *Father* had done before him.

Probably no Writs for the Election of Knights, Citizens, and Burgeses were issued in the beginning of King *Edward the First* his Reign.

I shall begin with the *Statute of Westminster* the first, the Preface whereof begins thus. *Ceux sont les Establishments, le Roy Ed-*

Tottells Stat. p. 24. 4. Cok. 2. Institut. f. 156.

R

ward

The Statute
of Westminster
first, and the
first Parlia-
ment of Ed-
ward the First.

ward fits le Roy H. faits a Westminster a son primer Parliament ge-
neral apres son Coronement, lendemain de la cluse de pasche lan, de
son Raign 3 per son Councel, & per lassentments, des Archeves-
ques, Evesques, Abbex, Priours, Countes, Barons, & tout la
Communalty de la terre illozqs somons. These are the Establissh-
ments of King Edward, the Son of King Henry, made at Westminster
at the first general Parliament after his Coronation, on the Morrow
of the close of Easter, in the Third year of his Reign, by his Coun-
cil, and by the assent of the Arch-Bishops, Bishops, Abbats, Priors,
Earls, Barons, and the whole Commonalty of the Land thither sum-
moned.

A

Why it was
called a gene-
ral Parlia-
ment.
See Communi-
tas Terra in
Glossario.

2 Instit. f. 156.

This was a general Parliament, and so called in respect of the ge-
nerality of the Summons, and Appearance, for besides the Arch-
Bishops, Bishops, Abbats, Priors, Earls, and Barons, all the Com-
munity of the Land, that is, all the lesser Barons, and Tenents in
Capite, were summoned to it. Sir Edward Coke says it was called a
general Parliament because all the Laws then made were general, if
so, why was not the Parliament at Marlebridge also called a general
Parliament, which consisted only of the more Discreet, as well of
the greater as lesser Persons, when as all the Laws there made were
as general as these.

B

The Parlia-
ment Pro-
rogued be-
fore meeting.

This Parliament was first summoned to meet fifteen days after the
Purification of the Virgin Mary, but was prorogued before meeting,
unto the Morrow after the close of Easter, which was the Munday
after Easter Munday. The Original Summons to it, are not to be
found upon the close Roll of this, or the preceding year of this
King, but the Writ of Prorogation directed to the Arch-Bishop of
Canterbury is as followeth.

C

Claus. 3. Ed. 1.
m. 21. Dors.
De veniendo
ad Parliamen-
tum.

Rex venerabili in Christo patri R. Cantuariensi Archiepiscopo totius
Angliae primati salutem, Quia Generale Parliamentum nostrum Quod cum
Prelatis & Magnatibus regni nostri proposuimus habere, London:
ad Quindenam purificationis beate Mariae proxime futuram; Quibusdam
certis de causis prorogabimus, usque in Crastinum Clausi Paschalis,
proxime sequens. Vobis Mandamus rogantes quatinus eidem Parlia-
mento ibidem in eodem Crastino Clausi Paschalis interstitis ad Tractan-
dum & Ordinandum una cum Prelatis & Magnatibus Regni nostri de
negotiis ejusdem Regni, & hoc nullatenus omittatis. T. Rege apud
Wodestok 27 die Decembr.

D

King Ed. 1.
began his
Reign, No-
vember 16.
1272.

The King to the Venerable Father in Christ R. Arch-Bishop of
Canterbury, Greeting; Because our general Parliament which we
purposed to have, with the Prelats, and Great Men of our King-
dom at London, on the Quindene of the Purification, &c. next com-
ing, we have for some certain causes prorogued, until the Morrow
of the close of Easter next following, we Command, requiring you
that you be present at the same Parliament, &c. to Treat and Ordain
together with the Prelats and Great Men of our Kingdom concern-
ing the Business of the same Kingdom, and this you may in no wise
omit. Witness the King, &c.

E

F

By

By this Writ we see the Kings purpose to hold a *general* Parliament, with the *Prelats*, and *Great Men* of his Kingdom, which *great Men*, very frequently comprehended as well the *Barones Majores*, as *Minores*, the *Earls*, *Barons*, and *greater Tenents in Capite*, and the less, which then were the *Community* of the Kingdom.

The great, and lesser Barons, are sometimes comprehended under the words *Magnates*.

A The next is the *Statute de Begamis*, made in the Fourth of Edward the First, the *Preamble* whereof runs thus. *In presentia venerabilium patrum, Quorundum Episcoporum Anglie, & aliorum de Consilio Regis, Recitatae fuerunt Constitutiones subscriptae, & postmodum Coram Domino Rege, & Consilio suo audita & publicata, Quia omnes de Consilio tam Justiciarii quam alii concordaverunt, Quod in Scripturam redigerentur ad perpetuam memoriam, & Quod firmiter observentur.*

Tonells Stat. p. 39. b. Cok. 2. Injtit f. 267. Statute De Bigamis made in 4 Edw. 1.

B In the presence of the Venerable Fathers, some of the Bishops of England, and others of the Kings Council, the underwritten **Constitutions* were recited, and afterwards, they were heard or read, and published before the King and his Council, because all of his Council, as well *Justiciaries*, as others agreed, that they should be written for perpetual memory, and firmly observed.

* That is the Statute it self. Quia, in this place, instead of *Because*, might have been translated (*and then*) for so it signifies, many times, in old Monks, and legal Latin.

C From these words, and none other, Sir Edward Coke observes the ancient Order, as he says, of proceeding in Parliament for passing of Bills; First, That a select Committee of certain Bishops, Barons, and some of the Commons, with the Judges assistance, expressed under the words, *Et aliorum de Consilio Regis*, (for at this time, he says, the Lords and Commons sate together) and after the Committee of both Houses had resolved hereupon, then to report it to the whole Council, here expressed under these words (*Audita & publicata*) which order in the several Houses is continued to this day. If I say, I cannot see any such sense, or meaning in the words, and leave it to my Judicious Readers to find it out, I hope they will excuse me.

Ibid. Sir Edw. Cokes straining of words to a sense they cannot bear. Q. If they sate together, how they were two Houses?

E From the *Preamble*, Sir Edward goes on to the first Chapter of the Statute, which begins thus, *De placitis ubi tenens excipit, Quod sine Rege Respondere non possit: Concordatum est per Justiciarios, & alios Sapientes de Consilio Regni Domini Regis, &c.* Concerning Pleas, where the Defendant excepts, that he cannot Answer without the King, it was agreed by the Justices, and other Wise, or Sage Men of the Council of the Kingdom of the Lord the King, &c.

Ibid. f. 268. Tonells Stat. ut supra.

Per Justiciarios, & alios Sapientes de Consilio Regni Domini Regis. Here, says Sir Edward, was used the ancient forms of Parliaments when the Acts were, *Rex ex Consilio Sapientum, &c.*

Ibid. Sir Edw. Coke understands not the meaning of the word *Sapientes* in the Saxon Laws. Ibid.

F At a Parliament holden by King Inas, Anno Domini 727. the Statutes began thus; *Ego Inas Dei beneficio Rex, suasu & instituto Cenredi patris mei, Hedde & Erkenwaldi Episcoporum meorum, omnium Senatorum Meorum, & natu majorum Sapientum populi mei, In magna servorum Dei frequentia, &c.* Here is the Parliament expressed as it continueth to this day: and adds to the same purpose

some part of the preambles, to the Laws of King Alured, Ethelstan, and Ethelred, which are much according to the same sense, and form. Here is indeed short work, and a positive assertion, but with what understanding, and reason it was made, I refer the Reader to what hath been said in this Discourse, of the Saxon Councils or Parliaments, and what is said in the Glossary in the word Sapientes.

Whether this was a Parliament, or what were the Constituent parts of a Parliament at this time, or of this Parliament in particular, I think it is neither so easie, nor plain to determine, as Sir Edward would have it to be; Perhaps the best understanding of the Preamble and First Chapter may be, that their Laws and Constitutions were prepared by the King and his Council, with the assistance of the Justices and Lawyers that were of it; or called to assist in it, and declared afterward in Parliament; For it's said in the Close of the Statute, *Prædictæ autem constitutiones editæ fuerunt apud Westmonasterium, in Parlamento post festum Sancti Michaelis, Anno Regni Regis Edwardi filii Regis Hen. quarto; Et extunc locum habeant.*

Totell's Stat.
p. 40. b.
2 Inst. f. 273.

Ibid. p. 41. a.
Cok. 2 Inst.
f. 277.
Vid. Stat. de
Quo Warranto,
30 Edw. 1.
In the second
Institute, in-
stead of pur-
veant mesme le
Roy, as it is in
Totell, it is
purveant mesme
le Roy.

Stat. f. 277.
The Constitu-
ent parts of
that Parlia-
ment which
made the Sta-
tute of Westm.
the second,
13 Edw. 1.

Statute of
Mortmain
made by the
King and his
Council,
Totell's Stat.
p. 48. a.

Ibid. p. 49. a.
Statute of
Alton Burnel,
made by the
King and his
Council,
11 Edw. 1.
Ibid. p. 82. b.

After this we shall observe the Preamble of the Statute of Gloucester. *Lan du Grace 1267. & del raigne le Roy Ed. firs le Roy Henry 6. a Gloucestre le moys Daugust, purveant mesme le Roy, pur amendment de son Roialm, & pur plus plener exhibition de droit, sicome le profit doffice demande, Apelles le plus discrettes de son Roialme, auxibien des Greinders come des Meinders, Establie est, & Concordantment ordine, &c.* The year of our Lord is here mistaken, for it should be 1278. which was the sixth of Edw. 1. This Preamble is almost the very same with the Preamble to the Statute of Marlebridge, and therefore shall say nothing further of it, and will only add, that by the Preface to the Statute of Westminster 2. made in the 13 of Edw. 1. it appears, that the Prelats, Earls, Barons, and the Kings Council were the Constituent parts of this or some other Parliament held at Gloucester that year. *Cum nuper Dominus Rex, in Quindena Sancti Johannis Baptiste, Anno Regni sui sexto, Convocatis Prelatis, Comitibus, Baronibus, & Concilio suo, apud Glocestre. Quia plures de Regno suo, &c.*

The Statute of Mortmain, was made by King Edward the First, in the Seventh year of his Reign, by Advice of the Prelats, Earls, Barons, and other Lieges of his Kingdom, being of his Council. *Nos pro utilitate Regni Congruum volentes providere Remedium, de Consilio Prelatorum, Comitum, Baronum, & aliorum fidelium Regni nostri de Concilio nostro Existantium, providimus, Statuimus, & Ordinavimus, Quod nullus Religiosus, &c.*

The Statute of Alton Burnel, or Statute Merchant in the Eleventh of Edward the First, was made by the King himself and his whole Council, *Le Roy per luy & per tout son Counsel, ad ordain & establie, Que Merchant, &c.* And this was done in Parliament, as appears by the Statute of Merchants made in the Thirteenth year of the same King. *Nostre Seignieur le Roy per luy, & per son Counsel, a son Parlement quil tient a Alton Burnel, apres la Seint Michael, lan de son Raign 11. fist & Ordeign, les Establisments, &c.* Our Lord the King by himself, and by his Council, at his Parliament which he held

held at *Aſton Burnel*, in the Eleventh year of his Reign, made and ordained theſe Eſtabliſhments, &c.

A In the Eighteenth year of this King on the first of *June*, the *Prelats, Earls, Barons*, and great Men of the Kingdom, with *one assent* in full Parliament, granted to him forty shillings of every Knights Fee, for an Ayd to Marry his Daughter, for *themselves*, and the whole Community of the Kingdom, as by Record appeareth.

B Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, & omnibus aliis de Comitatu Kantie salutem, Sciatis Quod cum primo die Junii Anno regni nostri decimo Octavo, Prelati, Comites, Barones, & Ceteri Magnates de Regno nostro Concor-diter pro se, & Tota Comunitate ejusdem Regni, in pleno Parlamento nostro nobis Concesserint Quadraginta Solidos de Singulis Feodis Militum in dicto Regno, in auxilium ad primogenitam filiam nostram mari-tandam, levandos sicut hujusmodi Auxilium, alias in casu Consimili concessum, levare consuevit, cujus quidem Auxilii Levationi faciende, per dicta Comunitatis assensu, huc usque super sedimus gratiose, Assignavimus dilectos & fideles nostros, Vicecomitem nostrum comitatus predicti & Ricardum de Rokelle, ad predictum Auxilium Quadraginta solidorum de singulis Feodis Militum predictis infra comitatum predictum ad opus nostrum levandum & Colligendum. Ita Quod unam medietatem ejusdem auxilii habeant ad scaccarium nostrum in Octabis purificationis beate Marie proximo futuris, & aliam medietatem in crastino Ascensionis Domini proxime sequenti, Thesaurario & Camerario nostris ibidem liberandas. Et ideo vobis Mandamus, Quod eisdem Vicecomiti & Ricardo in premissis intendentes sitis & Respondentes. In cujus, &c. Teste Rege apud Westminster 7 die Novembris.

D Hitherto in this Kings Reign there appears nothing, that can evince, either the summoning, or being, of any Commons, as now understood, or any Knights, Citizens, or Burgesses, in any of these Parliaments. We are at least left in uncertainties, nay the proof is most strong on the Negative, that there were none.

E Yet in this year there is a *Bundel* of Writs directed to the Sheriffs of severall, or most of the Counties of *England*, and they are the ancientest extant, or perhaps that ever were, (for in probability the calling of Knights, Citizens, and Burgesses, according to that example, was discontinued from the 49 of *H. 3.* unto this time) by which two or three Knights were directed to be chosen for each County. The Writ it self follows.

F Edwardus Dei gratia Rex Anglie, Dominus Hib. rnie, & Dux Aquitania vicecomiti Westmerlandie salutem, Cum per Comites, Barones, & quosdam alios de proteribus Regni nostri, nuper fuisset super quibusdam Specialiter requisiti, super Quibus, tam cum ipsis, quam cum aliis de Comitibus Regni illius Colloquium habere volumus & Tractatum, Tibi precipimus, Quod Duos vel tres de discretioribus, & ad laborandum potentioribus Militibus, de comitatu predicto sine Dilatione Eligi, & eos ad nos usque Westmonasterium venire facias, ita Quod sint ibidem, a die Sancti Johannis Bapt. prox. futur. in tres septimanas ad ultimum, cum plena potestate pro se & Comunitate comitat.

Rot. Pat. 37
Ed. 1. m. 1.

Forty shillings of every Knights Fee, given by the Prelats, Earls, Barons, and great Men for themselves and whole Community of the Kingdom.

Writs for Electing Knights, 18
Edw. 1.

Bundel of Summons to Parliament, 18 Edw. 1.

Two or three Knights to be chosen for a County.

tat. predicti, ad Consulendum & Consentiendum, pro se & communitate illa, Hiis Que Comites, Barones, & Proceres predicti, tunc duxerint concordanda, & habeas ibi hoc Breve. T. meipso apud Westmonasti. 14 die Jun. Anno regni nostro 18.

Edward by the Grace of God King of England, Lord of Ireland, and Duke of Aquitan, to the Sheriff of Westm^rland, Greeting. Whereas we have been especially Petitioned and Requested, by the Earls, Barons, and others of the great Men of our Kingdom, concerning certain matters, upon which we will have Conference and Treaty, as well with themselves, as with others of the Counties of that Kingdom, We Command thee, that without delay, thou makest to be chosen, two or three of the more discreet, and ablest Knights for dispatch of Business, of the County aforesaid, and cause them to come to us at Westminster, so that they be there, in three weeks after the Feast of St. John Baptist at furthest, with full power for themselves, and the whole Community of the County aforesaid, to consult and consent, for themselves, and that Community, to such things, which the Earls, Barons, and great Men aforesaid, shall then think fit to agree upon, and you are to have there this Writ. Witness my self at Westminster, the Fourteenth day of June, in the Eighteenth year of our Reign.

On the first of this Month the King had Scutage given him in full Parliament: Fourteen days after, at the instance of the Earls, Barons, and other great Men of the Kingdom, upon certain matters by them moved, and propounded to him, He issued this Writ of Summons to the Sheriffs of the several Counties, to cause to be chosen, two or three Knights of each County, to come to him at Westminster, three weeks after St. John Baptist (which is the Eighth of July) at farthest.

Upon this Writ, it may be observed, first, that it is most probable, (though it is not here absolutely said so) that the King was moved by the Earls, Barons, and great Men of the Kingdom to call these Knights to this Parliament; and that as this Writ is the first to be found after that of the 49 of Hen. 3. so it really was the first Writ of Summons after that time, for the Election of Knights to represent the several Counties.

Secondly, That there could be no Citizens, nor Burgeses chosen, or sent to this Parliament by virtue of this Writ, as there were afterward by directions contained in the Writs sent to the Sheriffs for Electing Knights of the Shire.

Thirdly, That by this Writ, the Knights were to come to the King at Westminster, three weeks after St. John Baptist at farthest, which was the fifteenth of July; that in the same year, between the time of the date of the Writ, and the time appointed for meeting of the Knights, the Statute of Westminster the third was made. Dominus Rex in Parlamento suo apud Westmonasterium post pascha Anno Regni sui decimo Octavo, videlicet in Quindena Sancti Johannis Baptiste, (that is the Eighth of July) ad instantiam Magnatum Regni sui Concessit, Prohibuit, & Statuit, Quod de cetero liceat unicuique

The King was in probability moved by the Earls, Barons, and great Men to call Knights of Shires.

Tottells Stat. p 85. b. 2. Instit. f. 500. The Statute of Westminster the third, seem to have been only by the King and Barons.

A *unicuique libero homini, &c.* So that this was either the same full Parliament, which gave the King *Scutage* on the first of June, and then the King and Barons without the Commons, made this Statute, or the Knights had another Summons after the date of this Writ, (for before that they were not in the Parliament) or the Knights came a week before they had need to have done, but neither of the latter, are probable, seeing the Knights then were great Husbands of their Time and Expences, and were not very forward to undertake this Service, as being constantly bound with, or engaged by Sureties, or Manucaptors, for the performance of it, and their appearance in Parliament, and therefore it seems reasonable to conclude, that this Law was made without them, and before their coming to Parliament.

B So much of this Writ; From which, and the variation of the following Writs, and other Records, it is most evident, that it was from the Kings Authority and time that the House of Commons came to be fixed, and established in the present constant form, it now is, and hath been in, for many Kings Reigns, and that the King in this Age was not altogether confined to any certain number of Knights, Citizens, or Burgeses, nor were several strict forms and usages now practised, ever then thought of, or some legal niceties and punctilio's now in use, then judged absolutely necessary.

C Rex Vic. Northumbr. Salutem. Quia cum Comitibus, Baronibus & ceteris Magnatibus de regno nostro super quibusdam negotiis arduis nos & idem regnum nostrum contingentibus, in Crast. Sancti Martini prox. futur. apud Westm. colloquium habere volumus & tractatum. Tibi precipimus quod eligi facias duos Milites de discretioribus, & ad laborandum potentioribus de Com. predicto, & eos ad nos usque Westm. venire facias. Ita quod sint ibi in Crastino predicto, cum plenâ potestate pro se & totâ Communitate, Com. predicti, ad consulend. & consentiend. pro se & Communitate illâ, hiis que Comites, Barones, & Proceres predicti concorditer Ordinaverint in præmissis, Et ita quod pro defectu potestatis, hujusmodi idem negotium infectum non remaneat, & habeas ibi hoc Breve. Teste Rege apud Westm. 8 die Octobr.

Cl. 22 Edw. 1. m. 6. Dors. De Militibus Eligendis & Mitendis ad Consilium.

Consimiles Literæ singulis Vice-comitibus Angliæ, T. ut supra.

E Rex Vic. Northumberl. Salutem. Cum nuper tibi præciperimus quod Duos Milites de discretioribus & ad laborandum potentioribus ejusd. Comitatus. de consensu ejusdem eligi. Et eos ad nos usque Westm. in Crast. Sancti Martini prox. futuro, cum plenâ potestate pro se & totâ Communitate ejusd. Com. venire faceres, ad consulend. & consentiend. pro se & Communitate illâ hiis quæ Comites, Barones, & Proceres de regno Nostro in dicto Crastino ordinabunt, Tibi præciperimus firmiter injungentes quod præter illos Duos Milites Eligi facias alios Duos Milites Legales & ad laborandum potentes & eos unâ cum dictis Duobus Militibus usque Westm. venire facias, ita quod in dicto Crastino sint ibidem ad audiend. & faciend. quod eis tunc ibidem plenius injungemus. Et hoc nullo modo Omittas. Et habeas ibi hoc breve. Teste Rege apud Westm. 9 die Octobris.

Pro Rege de aliis Militibus cum prioribus intendendis ut supra.

The King in this Age not confined to a certain number of Knights.

Eodem modo Mandatum est Singulis Vicecom. Angliæ Mutatis mutandis. T. ut supra.

Rex.

Cl. 18 Edm. 1.
m. 3. Dorf.

Edm. 1. began
his Reign,
Oct. 16. 1: 72.

Rex. Vicecom. Cumberl. salutem. Cum nuper pro communi utilitate Populi Regni nostri concesserimus, quod Charta de Foresta in singulis suis Articulis firmiter observaretur, assignando quosdam de fidelibus nostris in singulis Com. ejusdem Regni in quibus Foresta nostra existunt ad perambulationem in iisdem Forestis faciend. Ita quod perambulationem illam distincte & aperte factam ad Nos, antequam aliqua executio, vel aliquid aliud inde fieret, reportarent, & quod Juramentum nostrum, jus Coronae Angliae, rationes, & calumpniae nostrae nec jus rationes & calumpniae aliorum omnium salvae forent. Nos licet dicti fideles nostri nunc primo ad Nos detulerint quod fecerint in negotio memorato, quia tamen Praelati, Comites, Barones & Ceteri Magnates dicti regni in quorum praesentia, nostras & aliorum proponi, & audiri volumus rationes, & de quorum Consilio in eodem negotio, prout alias diximus, intendimus operari; Maxime cum ipsi ad observand. & manutenend. jura regni & coronae praedictae una nobiscum juramenti vinculo sint astricti, juxta latus nostrum tunc temporis non fuerunt: ac pro eo similiter, quod illi qui suas rationes, quatenus illud negotium eos tangit proponere habebant, inde praemuniti non erant, eidem negotio, sine ipsorum Consilio finem imponere non possumus bono modo: Et quia negotium illud quantum possumus cupimus maturari, ita quod per nos non stet quin absque ulterioris dilationis incommodo effectum debitum fortiaur; volentes cum Praelatis, Comitibus, Baronibus & Magnatibus supradictis, ac aliis de Communitate dicti Regni, Super hoc & quibusdam aliis arduis negotiis, nos & statum Regni praedicti tangentibus habere colloquium tractatum. Tibi praecipimus firmiter injungendo, quod venire facias coram nobis ad Parliamentum nostrum apud Lincoln, in Octab. Sancti Hillarii prox. futur. duos Milites de Balliva tua; Illos videlicet qui pro Communitate Com. praedictae ad Parliamentum nostrum ultimo praeteritum per praecipuum nostrum venerunt: Et etiam de qualibet Civitate infra Balivam tuam eisdem Cives, & de quolibet Burgo eisdem Burgenses qui ad praedictum Parliamentum nostrum alias sic venerunt. Et si forte aliquis Militum, Civium aut Burgensium praedictorum mortuus fuerit aut infirmus, per quod ad dictos diem & locum venire nequeverint, tunc loco illius Mortui aut infirmi unum alium idoneum ad hoc eligi & ad dictum Parliamentum nostrum venire facias. Ita quod Milites, Cives, & Burgenses praedicti dictis die & loco modis omnibus intersint cum plena potestate audiendi & faciendi, ea quae ibidem in praemissis Ordinari continget pro communi commodo dicti Regni. Et eisdem militibus de Communitate Com. praedictae, civibus de civitatibus & Burgensibus de Burgis praedictis rationabiles expensas suas habere facias, in veniendo ad dictum Parliamentum nostrum, ibidem morando & etiam redeundo. Tibi insuper praecipimus sicut prius, quod per totam Balivam tuam sine dilatione publice facias proclamari. Quod omnes illi qui terras aut Tenementa habent infra metas Forestae nostrae in Balliva tua & qui perambulationem in aliquo calumpniari voluerint, quod sint coram nobis in Parlamento nostro praedicto ostensur, in hac parte rationes suas & calumnias si quas habent, & habeas ibi nomina praedictorum Militum, Civium & Burgensium & hoc Breve. T. Rege apud le Rose, 26 die Septembris.

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Some

Some of the Returns Annexed to these WRITS.

A *Nomina Militum de Comitatu. Lincoln. Duorum Civium de qualibet Civitate, & Duorum Burgensium de quolibet Burgo, infra Com. prædict. viz. Eorum qui ad Parliamentum ultimo præceptum venerunt & securitatem quam michi fecerunt ad veniend. ad Parliamentum. Nunc tenend. Patent in sequenti. Manucap. Tho. fil. Eustachii unius Militis Com. prædict. 4. there returned after his Name: Man. Tho. de Burnham alterius Militis, 4. there listed. Man. Stephani de Cranham unius Civis Civitat. Lincoln. 4. Man. unius Burgensium de Grymsby, 4. Alterius Burgens. 4. there named.* Lincoln.

B *Milites Electi, Petr. de Dennardeston nunc electus est loco Johannis de Bisbake, qui infirmus est qui Manucap. per duos. Johannis de Peyton manuc. est per 2.* Suff.

Eligi in pleno Com. Glouc. feci loco unius Militis gravi infirmitate detent. alium Militem nomine Richardi de Croupes per Assensum ipsius Comitatus, &c. Glouc.

C *Robertus Pogers Miles, qui ad Parliamentum ultimo præteritum venit, infirmus est, in loco ipsius Roberti, Gerardus de Braybroke Miles electus est, & manucapitur per 4. there returned. Burgenses 2. de Agnundesbam, qui ad ultimum Parliamentum venerunt, Manucap. per 4. Manucaptors for either. Johannes de la Lude Burgensis Wycumbe electus est loco Stephani Ayet, qui fuit ad ultimum Parliamentum, pro eo quod idem Stephanus infirmus est: Manuc. pro 4.* Bucks.

D *Qui Reginaldus de Ferrers & Robertus Beaupill Milites, qui alias fuerunt ad Parliamentum per Electionem Com. non sunt potentes ad laborand. ad præsens, Electi sunt loco eorum Henricus de Raleigh & Nicholas de Kyrkton, who found 4 Manucaptors apiece there returned.* Devon.

Nomina civium Exon. Hen. de Bokwell, Johannes Farthein, loco Nicholai Page, qui impotens est. Exon.

E *It is commonly Storied (but Erroneously) that this whole Parliament, or at least the Temporal Lords and the Commons, wrote to the Pope, concerning the Jurisdiction and Superiority of the Kings of England over the Kingdom of Scotland. But it cannot be so, for this Parliament Met on the Octaves of Hillary, or the 20th of January, and sate but eight days; The Writs for the Commons Expences bear date, January 30, of the same year, and the Letter to the Pope, Signed by the Temporal Lords, for themselves, and the whole Community of the Kingdom of England, is dated Febr. 12. next following at Lincoln, after the Commons had been discharged 14 days. So that*
F *the Barons still continued to stile themselves the * Community of England, and such both Spiritual and Temporal Barons, and others of the Kings Council, did stay and dispatch much Business, after all others were dismissed, according to the Tenor of the following Proclamation, and may be fully proved from the Proceedings of that Parliament, as they are to be found in Reley's Placita Parliamentaria, f. 241, &c.*

* Vid. In Glossar Communias Terræ.

tat. predicti, ad Consulendum & Consentendum, pro se & comunitate illa, Hiis Que Comites, Barones, & Proceres predicti, tunc duxerint concordanda, & habeas ibi hoc Breve. T. meipso apud Westmonast. 14 die Jun. Anno regni nostro 18.

Edward by the Grace of God King of England, Lord of Ireland, and Duke of Aquitan, to the Sheriff of Westmerland, Greeting. Whereas we have been especially Petitioned and Requested, by the Earls, Barons, and others of the great Men of our Kingdom, concerning certain matters, upon which we will have Conference and Treaty, as well with themselves, as with others of the Counties of that Kingdom, We Command thee, that without delay, thou makest to be chosen, two or three of the more discreet, and ablest Knights for dispatch of Business, of the County aforesaid, and cause them to come to us at Westminster, so that they be there, in three weeks after the Feast of St. John Baptist at furthest, with full power for themselves, and the whole Community of the County aforesaid, to consult and consent, for themselves, and that Community, to such things, which the Earls, Barons, and great Men aforesaid, shall then think fit to agree upon, and you are to have there this Writ. Witness my self at Westminster, the Fourteenth day of June, in the Eighteenth year of our Reign.

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Upon this Writ, it may be observed, first, that it is most probable, (though it is not here absolutely said so) that the King was moved by the Earls, Barons, and great Men of the Kingdom to call these Knights to this Parliament; and that as this Writ is the first to be found after that of the 49 of Hen. 3. so it really was the first Writ of Summons after that time, for the Election of Knights to represent the several Counties.

Secondly, That there could be no Citizens, nor Burgeses chosen, or sent to this Parliament by virtue of this Writ, as there were afterward by directions contained in the Writs sent to the Sheriffs for Electing Knights of the Shire.

Thirdly, That by this Writ, the Knights were to come to the King at Westminster, three weeks after St. John Baptist at farthest, which was the fifteenth of July; that in the same year, between the time of the date of the Writ, and the time appointed for meeting of the Knights, the Statute of Westminster the third was made. Dominus Rex in Parlamento suo apud Westmonasterium post pascha Anno Regni sui decimo Octavo, videlicet in Quindena Sancti Johannis Baptiste, (that is the Eighth of July) ad instantiam Magnatum Regni sui Concessit, Prohibuit, & Statuit, Quod de cetero liceat unicuique

The King was in probability moved by the Earls, Barons, and great Men to call Knights of Shires.

Tottells Stat. p. 85. b. 2. Instit. f. 500. The Statute of Westminster the third, seem to have been only by the King and Barons.

A *unicuique libero homini, &c.* So that this was either the same full Parliament, which gave the King Scutage on the first of June, and then the King and Barons without the Commons, made this Statute, or the Knights had another Summons after the date of this Writ, (for before that they were not in the Parliament) or the Knights came a week before they had need to have done, but neither of the latter, are probable, seeing the Knights then were great Husbands of their Time and Expences, and were not very forward to undertake this Service, as being constantly bound with, or engaged by Sureties, or Manucaptors, for the performance of it, and their appearance in Parliament, and therefore it seems reasonable to conclude, that this Law was made without them, and before their coming to Parliament.

B So much of this Writ; From which, and the variation of the following Writs, and other Records, it is most evident, that it was from the Kings Authority and time that the House of Commons came to be fixed, and established in the present constant form, it now is, and hath been in, for many Kings Reigns, and that the King in this Age was not altogether confined to any certain number of Knights, Citizens, or Burgesses, nor were several strict forms and usages now practised, ever then thought of, or some legal niceties and punctilio's now in use, then judged absolutely necessary.

C *Rex Vic. Northumbr. Salutem. Quia cum Comitibus, Baronibus & ceteris Magnatibus de regno nostro super quibusdam negotiis arduis nos & idem regnum nostrum contingentibus, in Crast. Sancti Martini prox. futur. apud Westm. colloquium habere volumus & tractatum. Tibi precipimus quod eligi facias duos Milites de discretioribus, & ad laborandum potentioribus de Com. predicto, & eos ad nos usque Westm. venire facias. Ita quod sint ibi in Crastino predicto, cum plenâ potestate pro se & totâ Communitate, Com. predicti, ad consulend. & consentiend. pro se & Communitate illâ, hiis que Comites, Barones, & Proceres predicti concorditèr Ordinaverint in premissis, Et ita quod pro defectu potestatis, hujusmodi idem negotium infectum non remaneat, & habeas ibi hoc Breve. Teste Rege apud Westm. 8 die Octobr.*

Cl. 22 Edw. 1.
m. 6. Dorso.
De Militibus
Eligendis &
Mitendis ad
Consilium.

Consimiles Literæ singulis Vice-comitibus Angliæ, T. ut supra.

E *Rex Vic. Northumberl. Salutem. Cum nuper tibi precipimus quod Duos Milites de discretioribus & ad laborandum potentioribus ejusd. Comitatus de consensu ejusdem eligi. Et eos ad nos usque Westm. in Crast. Sancti Martini prox. futuro, cum plenâ potestate pro se & totâ Communitate ejusd. Com. venire faceres, ad consulend. & consentiend. pro se & Communitate illâ hiis que Comites, Barones, & Proceres de regno Nostro in dicto Crastino ordinabunt, Tibi precipimus firmiter injungentes quod præter illos Duos Milites Eligi facias alios Duos Milites Legales & ad laborandum potentes & eos unâ cum dictis Duobus Militibus usque Westm. venire facias, ita quod in dicto Crastino sint ibidem ad audiend. & faciend. quod eis tunc ibidem plenius injungemus. Et hoc nullo modo Omittas. Et habeas ibi hoc breve. Teste Rege apud Westm. 9 die Octobris.*

Pro Rege de
aliis Militibus
cum prioribus
intendendis ut
supra.

The King in
this Age not
confined to a
certain num-
ber of
Knights.

Eodem modo Mandatum est Singulis Vicecom. Angliæ Mutatis mutandis. T. ut supra.

Rex.

Cl. in Edm. I.
n. 3. Lond.

Edm. I. began
his Reign,
Oct. 16. 1172.

Rex. Vicecom. Cumberl. salutem. Cum nuper pro communi utilitate Populi Regni nostri concesserimus, quod Charta de Foresta in singulis suis Articulis firmiter observaretur, assignando quosdam de fidelibus nostris in singulis Com. ejusdem Regni in quibus Foresta nostrae existunt ad perambulationem in iisdem Forestis faciend. Ita quod perambulationem illam distincte & aperte factam ad Nos, antequam aliqua executio, vel aliquid aliud inde fieret, reportarent, & quod Juramentum nostrum, jus Coronae Anglie, rationes, & calumpniae nostrae nec jus rationes & calumpniae aliorum omnium salve forent. Nos licet dicti fideles nostri nunc primo ad Nos detulerint quod fecerint in negotio memorato, quia tamen Praelati, Comites, Barones & ceteri Magnates dicti regni in quorum praesentia, nostras & aliorum proponi, & audiri volumus rationes, & de quorum Consilio in eodem negotio, prout alias diximus, intendimus operari; Maxime cum ipsi ad observand. & manutenend. jura regni & coronae praedictae una nobiscum juramenti vinculo sint astricti, juxta latus nostrum tunc temporis non fuerunt: ac pro eo similiter, quod illi qui suas rationes, quatenus illud negotium eos tangit proponere habebant, inde praemuniri non erant, eidem negotio, sine ipsorum Consilio finem imponere non possumus bono modo: Et quia negotium illud quantum possumus cupimus maturari, ita quod per nos non stet quin absque ulterioris dilationis incommodo effectum debitum fortiaur; volentes cum Praelatis, Comitibus, Baronibus & Magnatibus supradictis, ac aliis de Communitate dicti Regni, Super hoc & quibusdam aliis arduis negotiis, nos & statum Regni praedicti tangentibus habere colloquium tractatum. Tibi praecipimus firmiter injungendo, quod venire facias coram nobis ad Parlamentum nostrum apud Lincoln, in Octab. Sancti Hillarii prox. futur. duos Milites de Balliva tua; Illos videlicet qui pro Communitate Com. praedictae ad Parlamentum nostrum ultimo praeteritum per praepceptum nostrum venerunt: Et etiam de qualibet Civitate infra Balivam tuam eisdem Cives, & de quolibet Burgo eisdem Burgenses qui ad praedictum Parlamentum nostrum alias sic venerunt. Et si forte aliquis Militum, Civium aut Burgensium praedictorum mortuus fuerit aut infirmus, per quod ad dictos diem & locum venire nequeverint, tunc loco illius Mortui aut infirmi unum alium idoneum ad hoc eligi & ad dictum Parlamentum nostrum venire facias. Ita quod Milites, Cives, & Burgenses praedicti dictis die & loco modis omnibus intersint cum plena potestate audiendi & faciendi, ea quae ibidem in praemissis Ordinari continget pro communi commodo dicti Regni. Et eisdem militibus de Communitate Com. praedictae, civibus de civitatibus & Burgensibus de Burgis praedictis rationabiles expensas suas habere facias, in veniendo ad dictum Parlamentum nostrum, ibidem morando & etiam redeundo. Tibi insuper praecipimus sicut prius, quod per totam Balivam tuam sine dilatione publice facias proclamari. Quod omnes illi qui terras aut Tenementa habent infra metas Forestae nostrae in Balliva tua & qui perambulationem in aliquo calumpniari voluerint, quod sint coram nobis in Parlamento nostro praedicto ostensur, in hac parte rationes suas & calumnias si quas habent, & habeas ibi nomina praedictorum Militum, Civium & Burgensium & hoc Breve. T. Rege apud le Rose, 26 die Septembris.

A

B

C

D

E

F

Some

Some of the Returns Annexed to these W R I T S.

A *Nomina Militum de Comitatu. Lincoln. Duorum Civium de qualibet Civitate, & Duorum Burgensium de quolibet Burgo, infra Com. prædict. viz. Eorum qui ad Parliamentum ultimo præceptum venerunt & securitatem quam michi fecerunt ad veniend. ad Parliamentum. Nunc tenend. Patent in sequenti. Manucap. Tho. fil. Eustachii unius Militis Com. prædict. 4. there returned after his Name: Man. Tho. de Burnham alterius Militis, 4. there listed. Man. Stephani de Cranham unius Civis Civitat. Lincoln. 4. Man. unius Burgensium de Grymsby, 4. Alterius Burgens. 4. there named.* Lincoln.

B *Milites Electi, Petr. de Dennardeston nunc electus est loco Johannis de Bisbake, qui infirmus est qui Manucap. per duos. Johannis de Peyton manuc. est per 2.* Suff.

Eligi in pleno Com. Glouc. feci loco unius Militis gravi infirmitate detent. alium Militem nomine Richardi de Croupes per Assensum ipsius Comitatus, &c. Glouc.

C *Robertus Pogers Miles, qui ad Parliamentum ultimo præteritum venit, infirmus est, in loco ipsius Roberti, Gerardus de Braybroke Miles electus est, & manucapitur per 4. there returned. Burgenses 2. de Agnundesbam, qui ad ultimum Parliamentum venerunt, Manucap. per 4. Manucaptors for either. Johannes de la Lude Burgensis Wycumbe electus est loco Stephani Ayet, qui fuit ad ultimum Parliamentum, pro eo quod idem Stephanus infirmus est: Manuc. pro 4.* Bucks.

D *Qui Reginaldus de Ferrers & Robertus Beaupill Milites, qui alias fuerunt ad Parliamentum per Electionem Com. non sunt potentes ad laborand. ad præsens, Electi sunt loco eorum Henricus de Ralegh & Nicholas de Kyrkton, who found 4 Manucaptors apiece there returned.* Devon.

Nomina civium Exon. Hen. de Bokwell, Johannes Farthein, loco Nicholai Page, qui impotens est. Exon.

E *It is commonly Storied (but Erroneously) that this whole Parliament, or at least the Temporal Lords and the Commons, wrote to the Pope, concerning the Jurisdiction and Superiority of the Kings of England over the Kingdom of Scotland. But it cannot be so, for this Parliament Met on the Octaves of Hillary, or the 20th of January, and sate but eight days; The Writs for the Commons Expences bear date, January 30, of the same year, and the Letter to the Pope, Signed by the Temporal Lords, for themselves, and the whole Community of the Kingdom of England, is dated Febr. 12. next following at Lincoln, after the Commons had been discharged 14 days. So that the Barons still continued to stile themselves the * Community of England, and such both Spiritual and Temporal Barons, and others of the Kings Council, did stay and dispatch much Business, after all others were dismissed, according to the Tenor of the following Proclamation, and may be fully proved from the Proceedings of that Parliament, as they are to be found in Reley's Placita Parliamentaria, f. 241, &c.*

* Vi. In Glossar Communis Terræ.

Puis apres le 21 jour de Marz fu fait une crie par commandement le Roi en cestcs paroles.

33 Edw. 1.
Ryley's Placita
Parl. fol. 241.

ERcevesqs, Evcsqs & autres Prelatz, Countes & Barons Chivalers des Countez, Citizeins & Burgeys & autres gentz de la commune que cy sont venuz al mandement nostre Seigneur le Roy a cest Parlement, le Roy les mercy mult de lour venue & vuet que quant a ore qu'il retournent en leur pais; Issint qu'il renueignent prestement & sanz delai quele heure qu'il soient autre foiz remandez sauve les Evcsqs Countes & Barons Justices & autres qui sont du Conseil nostre Seigneur le Roy que ceux ne sen allient sanz especial conge du Roy. Et ceux qui ont a busoigner de ceux demorgent a sivre leur busoignes. Et les Chivalers qui sont venuz pur les Countez, & les autres qui sont venuz pur les Citez & les Burghs sivent a Sire Johan de Kirkeby & il leur fra avoir Brefs d'avoir leur despenses en leur pais. Et lavant dit Johan de Kirkeby par la reson de la Crie avant dite les nonns de Chivalers qui vindrent pour les Countez & les nonns des autres qui vindrent par les Citez & Burghs livera au Chanceler, & fist crier que touz y ceux qui voussissent brefs sivre de leur despens sicome desus est dite sivrissent illoques pour leur brefs.

Then after, on the One and twentieth day of March, Proclamation was made, by Commandment of the King, in these words.

THe King gives the Arch-Bishops, Bishops, and other Prelats, Earls, and Barons, Knights of Counties, Citizens and Burgeses, and other Persons of the Commons, which by our Lord the Kings Command, came to this Parliament, many thanks for their coming; and Willeth that at present they return into their Countries, so as they readily and without delay, do come again at the time when they shall be remanded, except the Bishops, Earls, and Barons, Justices and others, which are of the Kings Council, who may not depart without special leave of the King: and those which have Business must stay, to follow it: and the Knights that come for Counties, and the others that come for Cities and Burghs may apply themselves to Sir John de Kirkeby, and he shall cause them to have Writs for their Expences in their Countries: and the aforesaid John de Kirkeby, by virtue of the Proclamation aforesaid, shall deliver the names of the Knights, Citizens, and Burgeses to the Chancellor; and Proclamation was made, that all such as would sue for the Writs of Expences, should do it as above is said.

This was neither *Prorogation* nor *Adjournment* according to the present method, but rather a *dismission*, with order to come again upon *Re-summons*. This Parliament met on Sunday after the Feast of St. Matthias the Apostle, which Feast is Febr. 24. and sate about three weeks, according to this Proclamation, and the Writs for the Expences of the Commons, bearing date March the Twenty third next following.

Clauf.

The Parliament dismissed, to come again upon Resummons.

After the Dismission, the King and Council answered the Petitions, See Ryley's Placita Parliamentaria, f. 241, &c.

Claus. 23. E. 1. m. 4. Dorfo.

R Ex Vicecomiti Northampton, salutem, Quia cum Comitibus Baronibus & ceteris Proceribus Regni nostri super remediis contra pericula qua eidem Regno hiis diebus imminere providendum, colloquium habere volumus, & tractatum per quod eis mandavimus quod sint ad nos die dominica proximo post festum Sancti Martini in hyeme proximo futurum, apud Westminster ad tractandum, ordinandum, & faciendum, qualiter sic huiusmodi periculis obviandum, tibi precipimus firmiter injungentes, quod de Comitatu predicto duos Milites & de qualibet Civitate ejusdem Comitatus predicti duos Milites & de quolibet Burgo duos Burgenses, de discretioribus & ad laborandum potentioribus, sine dilatione eligi, & eos ad nos ad predictos diem & locum venire facias, ita quod dicti Milites plenam & sufficientem potestatem pro se & Communitate Comitatus predicti, & dicti Cives & Burgenses pro se, & Communitate, Civitatum, & Burgorum predictorum, divisim, ab ipsis, tunc ibidem habeant ad faciendum quod tunc de Communi consilio ordinabitur in premissis, ita quod pro defectu huiusmodi potestatis negotium predictum infectum non remaneat quoquo modo, & habeas ibi nomina Militum, Civium, Burgensium, & hoc breve. Teste Rege apud Cantuariam tertio die Octobris.

De Parlamento tenendo.

Two Knights, two Citizens, and two Burgesses chosen, &c.

C Consimiles literæ diriguntur singulis Vicecomitibus per Angliam & de eadem data.

Rex venerabili in Christo patri R. eadem gratia Cantuariensi Archiepiscopo, totius Angliæ Primati, salutem, sicut lex iustissima provida circumspectione sacrorum principum stabilita, hortatur, & statuit, ut quod omnes tangit, ab omnibus approbetur; Sic & innuit, evidenter, ut communibus periculis, per remedia provisæ communiter obvietur; Sane satis nostris & jam est ut credimus per universa mundi climata divulgatum, qualiter Rex Franciæ de terra nostra Vasconiæ nos fraudulenter, & cantelose decepit, eam nobis nequiter detinendo, Nunc vero predictis fraude, & nequitia, non contentus, ad expugnationem Regni nostri classe maxima, & Bellatorum copiosa multitudo congregatis, cum quibus regnum nostrum & Regni ejusdem incolas hostiliter jam invasit, linguam Anglicam si conceptæ iniquitatis proposito destabili potestas correspondeat, quod Deus avertat, omnino de terra delere proponit, Quia igitur provisæ jacula minus ledunt, & res vestra maxime sicut ceterorum regni ejusdem concivium, agitur, in hac parte vobis mandamus in fide & dilectione quibus nobis tenemini, firmiter injungentes, quod die dominica proxima post festum Sancti Martini in hyeme proximo futurum, apud Westminster personaliter intersitis Premunientes Priorem & Capitulum Ecclesiæ vestræ, Archidiaconum totumque Clerum vestræ Diocesis, facientes quod iidem Prior & Archidiaconi in propriis personis suis, & dictum Capitulum per unum, idemque Clerus per duos procuratores idoneos, plenam & sufficientem potestatem ab ipsis Capitulo, & Clero, habentes, una vobiscum intersint, modis omnibus, tunc ibidem, ad tractandum, ordinandum & faciendum, nobiscum, & cum ceteris Prelatis & Proceribus, & aliis incolis Regni nostri, qualiter sic huiusmodi periculis & excogitatis maliciis obviandum, teste Rege apud Wengeham tricesimo die Septembris.

Cl. 23 Ed. m. 4. Dorf.

The Procurators or Clerks of the Clergy were to treat, ordain, do, &c.

The Incolæ Regni, were the Knights, Citizens, and Burgesses, mentioned in the former Writ, but not here enumerated.

Ibidem.

Consimiles literæ diriguntur Episcopis Elyen. Norwyc. Winton. & Roff. & de eadem data. Et etiam sub eadem forma scribitur Episcopis Dunelm. Karl. & de eadem data.

Ibidem.

Consimiles literæ diriguntur Archiepiscopo Eborum Episcopis London. Lincoln. Cicestr. Exon. Heref. Sarum, Assanen. Bangoren. Electo Meneven. vel ejus vices gerenti & Episcopo Landaven. usque ibi premunientes & tunc diciter premunientes Decanos & Capitula Ecclesiarum suarum Archidiaconum totumque Clerum suarum Diacessum facientes quæ quod iidem Decani & Archidiaconi in propriis personis suis & dicta Capitula per unum, idemque Clerus per duos procuratores idoneos plenam & potestatem sufficientem ab ipsis Capitulis & Clero habentes una, &c. ut supra. Teste ut supra.

Ibidem.

Consimiles literæ diriguntur W. Bathon. & Wellen. Episcopo & R. Coventr. & Lich. Episcopo usque ibi premunientes, &c. & tunc dicitur premunientes Priorem & Capitulum Bathon. & Decanum & Capitulum Wellen. Ecclesiarum suarum nec non Archidiaconum & Clerum, &c. & in alio brevi dicto Coventr. & Lich. Episcopo & dicitur sic Premunientes Priorem & Capitulum Coventr. & Decanum & Capitulum Lich. &c. ut supra. Teste ut supra.

Ibidem.

Sub eadem forma scribitur Abbati Sancti Augustini Cantuarie usque ibi vobis mandamus in fide & dilectione quibus nobis tenemini firmiter injungentes quod die dominica proxima post festum Sancti Martini in hyeme proxima futura apud Westminster personaliter interfiris ad tractandum ordinandum & faciendum nobiscum & cum ceteris Prelatis & Proceribus & aliis incolis Regni nostri qualiter sic hujusmodi periculis & Excogitatis maliciis obviandum. Teste ut supra.

The Incole
Regni were
the same here
as in the for-
mer Writ.

Ibidem.

Consimiles literæ & sub eadem data diriguntur Abbatibus subscriptis, N. 70.

Exempti.
 Abbati de Sancto Edmundo.
 Abb. de Waltham.
 Abb. de Sancto Albano.
 Abb. de Evesham.
 Abb. de Alnewyk.
 Abb. de Egleston.
 Abb. de Sancta Agatha.
 Abb. de Barlings.
 Abb. de Thenenpholm.
 Abb. de Byleye.
 Abb. de la Dale.
 Abb. de Nenhus.
 Abb. de Cokerfond.
 Abb. Croxton.
 Abb. de Sancta Radegund.
 Abb. de Herpe.

Exempti.
 Abb. Tichefeld.
 Abb. de Suleby.
 Abb. de Lawenden.
 Abb. de Torre.
 Abb. de Wessebeck.
 Abb. de Hales.
 Abb. de Bello Capite.
 Magistro Militie Templi in Anglia.
 Priori Hospit' in Angliæ.
 Magistro Ordinis de Sempringham.
 Exempti.
 Abb. de Furneys.
 Abb. de Sallay.
 Abb. de Holm Coltram.
 Abb. de Novo Monasterio.
 Abb. de Joreval.

Abbati

A
Abbati de Föntibus.
Abb. de Bella Landa.,
Abb. de Mella.
Abb. de Kirkeftede.
Abb. de Rupe.
Abb. de Ruhgford.
Abb. de Valle dei.
Abb. de Gerndon.
Abb. de Stanle in Arderne.
Abb. de Pippewell.
Abb. de Cumbe.
Abb. de Blanca Landa.
Abb. de Basingwerk.
Abb. de Cumbermere.
Abb. de Crokesden.
B
Abb. de Valle Regali.
Abb. de Deula Cresse.
Abb. de Mira Valle.
Abb. de Stanlawe.

Abb. de Bildewas.
Abb. de Stanle in Wilts.
Abb. de Swynesheved.
Abb. de Warden.
Abb. de Boxle.
Abb. de Strattford.
Abb. de Tileteye.
Abb. de Bynedon.
Abb. de Quarrera.
Abb. de Leceleye.
Abb. de Binkeswell.
Abb. de Bello loco R.
Abb. de Sratta Florida.
Abb. de Flaxele.
Abb. de Tinterne.
Abb. de Kinges Woode.
Abb. de Waverle.
Abb. de Revesby.
Abb. de Parco Ludo.

This Parliament did not meet on the *Sunday* after *St. Martins*, but was Prorogued to the *Sunday* next before *St. Andrew* the Apostle. *Teste Rege apud Odmer. 2 die Novembris.*

Cl. 23 Ed. 1.
m. 2. Dors. de
Parlamento
prorogando.

C
Rex. Vic. Ebor. Salutem. *Pracipimus tibi firmiter injungentes, quod illos Milites, Cives, & Burgenfes de Balliva tua quos nuper ad presens Parliamentum nostrum apud London inchoatum de mandato nostro venire fecisti, & qui ab eodem Parlamento certis de causis recesserunt, vel alios ad hoc idoneos loco ipsorum si ad hoc vacare non possint, usque Westm. ad idem Parliamentum quod ibidem duximus continuandum, venire facias. Ita quod sint ibidem in crastino Sancti Martini prox. futur. ad ultimum cum sufficienti potestate Comitatus tui & Civitatum & Burgorum predictorum ad consentiendum, &c. Teste Rege apud London 11 die Octobris.*

Cl. 5 Ed. 2.
m. 26. Dors.

A Precept to the Sheriffs to send again such Members as left the Parliament, or to choose others in their stead.

E
Memorandum quod die Lunæ prox. ante festum decollationis Sancti Johannis Baptiste, Anno Regni Regis Edwardi fil. Regis Edwardi Sexto. Dom. Rex apud Westm. præcepit quod Milites, Cives & Burgenfes qui ad Parliamentum Regis ibidem summonitum convenerant pro Communitatibus, Civibus, & Burgis Angliæ ad præsentia remearent. Ita quod reberterentur ibidem in Crastino Sancti Michaelis prox. futur. sub. pænâ quæ decet. T. Rege apud Westm. 28 die Augusti.

Cl. 6 Ed. 2.
m. 7. Dors.

The King Prorogues, or Adjourns the House of Commons. And he punished the Members for Absence.

F
Rex. Vic. Northumb. salutem. Licet nuper super diversis & arduis negotiis nos & statum Regni nostri tangentibus Parliamentum apud Westm. in Quindena Sancti Andreæ prox. futur. tenere ac ibidem per Isabellam Reginam Angliæ Consortem nostram charissimam, & per Edwardum filium nostrum primogenitum, Custodem ejusdem Regni, nobis extra idem Regnum tunc agentibus, atque Prælatos, Proceres & Mag-nates Regni predicti, haberi voluissimus Colloquium & tractatum. Tibi præciperimus quod de commanitate Com. tui duos Milites, & de singulis Burgis duos Burgenfes venire faceres ad diem & locum predictos.

Cl. 20 Ed. 2.
m. 4. Dors.

A Prorogation before Meeting of the Parliament.

Ita

Ita quod dicti Milites a Communitate dicti Com. & dicti Cives a Communitatibus dictarum Civitatum, & predicti Burgenses a Communitatibus Burorum predict. plenam & sufficientem haberent potestatem ad consentiendum hiis que tunc ibidem de communi Consilio Regni nostri contingeret ordinari. Quia tamen quibusdam de causis necessariis & utilibus predicta Parliamentum & Tractatum usque in crastino Epiphaniæ Domini prox. jam. futur. apud dictum locum Westm. tunc tenend. duximus prorogand. Tibi significamus quod predictos Milites, Cives & Burgenses ad dictam quindenam apud dictum locum Westm. ex causa Parliamenti & tractatus predictorum accedere non oportet & hac eis scire facias ex parte nostra. Tibi insuper precipimus, quod predictos Milites, Cives & Burgenses venire facias in dicto crastino apud dictum locum Westm. cum sufficienti potestate sicut predictum est. Et habeas ibi nomina predictorum Militum Civium & Burgensium, & hoc breve, & hoc nullatenus omittas. Teste R. apud Ledbury, 3 die Decemb.

Eodem modo mandatum est singulis, Vic. per Angl. sub eadem data.

Cl. 24 Edw. 3.
p. 2. m. 3. To
all Sheriffs in
England.

Quod de Comitatu tuo duos Milites, &c. de discretioribus & probioribus Militibus, Civibus & Burgensibus, & ad laborand. potentioribus, Qui non sint placitatores querelarum manutentores aut ex bujusmodi questu bibentes, &c. sed homines valentes & bone fidei & publicum commodum diligentes eligi, &c. ut propter improvidam electionem Militum, Civium aut Burgensium predictorum dicta negotia nostra infecta non remaneant. T. R. apud Westm. xxv. die Novembr.

Bundel of
Writs of
Summons,
26 Edw. 3.
with the Re-
turns indorsed.

One Burges
only Sum-
moned.

Edwardus Dei Gracia, Rex Angl. & Franc. & Dominus Hiberniæ Ballivis Ville de Sancto Boto pbo salutem. Quia per magnis, & urgentibus negotiis & nobis subitis ad nos perlatis nos & statum ac jura Regni nostri Angliæ summe concernentibus super quibus festinandum & providum oportet ordinari remedium cum Prelatis Magnatibus & Proceribus ac aliis fidelibus nostris dicti regni nostri apud Westm. in Crastino Assumptionis beate Mariæ prox. futur. colloquium habere volumus & tractatum. Vobis precipimus firmiter injungentes quod unum Burgensem de provectionibus & magis expertis Burgensibus ejusdem Ville sine dilatione eligi & ad dictos diem & locum venire fac. Ita quod idem Burgensis pro se & communitate villæ predictæ plenam & sufficientem potestatem habeat ad tractand. consulend. & consentiend. hiis que tunc divina favente clementia de communi consilio contigerit ordinari super negotiis antedictis, & ut homines ab ista occupatione autumnali quo minus possumus retrahamus unum tantum Burgensem de dicto Burgo ad dictum Consilium mittend. habere volumus ista vice. Et habeatis ibi nomen predicti Burgensis & hoc breve. Nos de die receptionis presencium & per quem vobis delate fuerint certificantes tunc ibidem. T. me ipso apud Westm. xx. Die Jul. anno regni nostri Angl. vicesimo sexto, regni vero nostri Franc. tertio decimo.

Per ipsum Regem & Cons.

Cons.

Conf. brevia diriguntur villis subscriptis, viz.

- A
Majori & Ballivis Villæ Bristoll.
Ballivis Villæ Magnæ Fernemouth.
Majori & Ballivis Villæ de Kingston super Hull.
Majori & Ballivis Villæ de Lenne.
Majori & Ballivis Villæ Southampton.

*Consimilia brevia diriguntur Civibus subscriptis mutatis mutandis,
T. ut supra.*

- B
Majori & Ballivis Civitatis Cicestr.
Majori & Ballivis Civitatis Ebor.
Majori & Ballivis Civitatis Linc.
Ballivis Civitatis suæ Norwic.

*Consimilia brevia diriguntur singulis Vic. Angl. mutatis mutan-
dis, T. ut supra. pro uno Milite tantum.*

- C
Edwardus Dei Gracia Rex Angl. & Franc. & Dominus Hiberniæ
Ballivis villæ de Sancto Botolpho. salutem. Quia pro magnis & urgen-
tibus negotiis nos & statum regni nostri Angl. summe concernenti-
bus cum prelatiis magnatibus proceribus & aliis fidelibus nostris
dicti regni apud Westm. die Lunæ prox. post festum Sancti Mathei Apostoli
proximo futur. colloquium habere volumus & tractatum vobis præcipi-
mus firmiter injungentes, quod duos Burgenses de provectioribus &
discretioribus & magis expertis Burgensibus Ville prædictæ de assensu
ejusdem Villæ sine dilatione eligi & eos ad diem & locum prædictos ve-
nire fac. Ita quod iidem Burgenses pro se & communitate Ville
prædictæ sufficientem potestatem habeant ad tractand. consulend. &
consentiend. his quæ tunc divina favente clementia de communi consilio
contigerit ordinari super negotiis antedictis. Et hoc nullatenus omittatis.
T. me ipso apud West. xij die Julii, anno regni nostri Angl vice-
simo septimo regni vero nostri Franc. Quartodecimo.

Bundel of
Writs of
Summons,
27 Edw. 3.
with the Re-
turns indors-
ed.

Two Burges-
ses.

Per ipsum Regem & Consil.

E

Conf. brevia diriguntur Burgis subscript.

- F
Majori & Ballivis Bedds.
Majori & Ballivis Villæ Bristoll.
Majori & Ballivis Coventr.
Majori & Ballivis Derb.
Majori & Ballivis Exon.
Majori & Ballivis de Gippewico.
Majori & Ballivis Villæ Glouc.
Ballivis Magnæ Fernemuth.
Majori & Ballivis de Kingston super Hull.
Majori & Ballivis Lincoln.
Majori & Ballivis Villæ Northampt.

Majori

Majori & Ballivis Villæ Nottingham.
 Majori & Ballivis Oxon.
 Majori & Ballivis Rich.
 Majori & Ballivis Villæ Salop.
 Majori & Ballivis Staff.
 Majori & Ballivis Warr.

Conf. pro Civibus mutatis mutand.

Majori & Ballivis Civitatis Ebor.
 Ballivis Civitatis Eliensis.
 Majori & Ballivis Civitatis Heref.
 Majori & Vicecom. London.
 Majori & Ballivis de Norwico.
 Majori & Ballivis de Welles.
 Majori & Ballivis Wygorn.
 Majori & Ballivis Wynton.

Bundel of
 Writs of
 Summons,
 27 Edw. 3.
 with the Re-
 turns indorsed.

But one It.
 for a County,
 when two
 Bargesses, &c.

Cl. 31 Edw. 3.
 m. 2. Dorset.

Absent Mem-
 bers of the
 Commons
 House made
 their Excuse
 to the King.

Edwardus Dei Gracia Rex Angliæ, & Franc. & Dominus Hiberniæ,
 Vic. Beddæ & Bucks salutem. Quia pro magnis & urgentibus ne-
 gociis nos & statum regni nostri Angl. summe concernentibus cum
 Prelatis Magnatibus Proceribus & aliis fidelibus dicti regni apud
 Westm. die Lune prox. post festum Sancti Mathei Apostoli prox. futur.
 colloquium habere volumus & tractatum. Tibi precipimus firmiter
 injungentes quod unum Militem cinctum gladio de discretioribus Mi-
 litibus & magis expertis de utroque Com. prædictor. assensu eorundem
 Com. sine dilatione eligi, & eos ad diem & locum prædictos venire fac.
 Ita quod uterque eorundem Militum pro se & communitate Com.
 sui plenam & sufficientem potestatem habeat ad tractand. consulend.
 & consensuend. hiis quæ tunc divina favente clementia de communi con-
 silio contigerit ordinari super negociis antedictis. Et hoc nullatenus
 omittas. T. meipso apud Westm. 10 die Jul. Anno regni nostri Angl.
 vicesimo septimo regni vero nostri Franc. Quartodecimo.

Conf. brevvia diriguntur Vicecom. Ang.

Rex Vic. Kanc. &c. Tibi precipimus firmiter injungentes, quod de
 Com. tuo duos Milites, gladiis cinctos & de qualibet Civitate com. illius
 duos Cives, & de quolibet Burgo duos Burghenses, de discretioribus &
 probioribus Militibus, Civibus & Burghensibus, Com. Civitatum & Bur-
 gorum eorundem, & de elegantioribus personis eligi, &c. Ita quod, &c.
 seu propter improvidam electionem Militum, Civium, aut Burghensium præ-
 dictorum dicta negotia nostra infecta non remaneant, &c. Et habeas ibi
 nomina prædictorum Militum, Civium & Burghensium, & hoc breve. Et
 scire facias eisdem, quod propter arduum negotiorum prædicto-
 rum & celeriore expeditionem eorundem volumus primo die Par-
 liamenti personaliter interesse, per quod nolumus, nec intendimus
 aliquem ad dictum Parlamentum summonitum quin eodem primo
 die personaliter interfuit, habere ullo modo excusatum, nec excusa-
 tionem inde admittere aliqualem. Teste R. apud Westm. 5. die
 Decembr.

*Consimilia brevvia diriguntur singulis Vicecomitibus per Angliam, nec-
 non Henrico Duci Lancastr. vel ejus locum tenenti sub eadem data.*

Rex

Rex Vic. Kanc. salutem. Cum Comites, Barones, Magnates, & Communitas Regni nostri Angliæ in ultimo Parlamento nostro apud Westm. tento in auxilium expensarum quas tam pro salvatione & defensione Regni nostri Angliæ & Navigii jussu Regni quam pro expeditione guerræ nostræ Franciæ nos facere oportebit, concesserint vobis quoddam subsidium viginti & duorum solidorum & trium denariorum levand. & percipiend. de qualibet Parochiâ dicti Regni. Ita quod qualibet Parochia majoris valoris auxilians sit & contributoria alteri Parochiæ minoris valoris juxta ratum, ea intensio quod dictum subsidium ad summam quinquaginta millium librarum se attingeret. Et quia habita super levatione subsidii prædicti per nos & Consilium nostrum deliberatione diligenti, videtur eidem Consilio, quod dicti viginti & duo solidi, & tres denarii de qualibet Parochiâ dicti Regni sic levandi ad dictam summam quinquaginta millium librarum per multum non attingunt; & sic versimiliter formidatur, quod nobis de dicta summa quinquaginta milli m librarum ad terminos statutos juxta intentionem concessionis prædictæ responderi non potest. Nos volentes plenius informari super declaratione intentionis concessionis subsidii prædicti, qualiter levatio ejusdem celerius fieri possit & considerantes, quod onerosum esset omnes Magnates ac Milites, Civis & Burgenses, qui ad dictum Parlamentum nostrum, de mandato nostro venerant, iterum & hac causa conveniri; ordinavimus ut laboribus parcatur & expensis, cum quibusdam eorundem Magnatum Militum Civium & Burgensium prædictorum super præmissis Colloquium, habere & Tractatum. Tibi præcipimus firmiter injungentes, quod Thomam Apulzfeld, unum Militem Com. prædicti, Edmundum Hozne unum Civium Civitatis Cantuar. & Johan. Synchenfeld unum Civium Civitatis Roffen, qui pro communitate Com. & Civitatum prædict. ad dictum Parlamentum de mandato nostro venerunt, si superstites fuerint, alioquin socios suos qui cum eis de veniendo ad Parlamentum prædictum electi fuerunt, præmunire facias; quod ipsi omnibus aliis prætermisiss & quacunque excusatione cessante, in propriis personis suis sint apud Wynton in Octabis Sanctæ Trinitatis prox. futur. ad informand. Nos & dictum Consilium nostrum, super modo & forma quibus nobis de dicta summa quinquaginta millium librarum celerius & commodius juxta intentionem concessionis prædictæ poterit responderi. Et interim diligenter inquires de numero Ecclesiarum Parochialium, & Capell. rum & Præbendarum in Com. prædicto, tam in manibus secularium quam Religiosorum existentium, & Nobis de nominibus eorundem, ac de nominibus Militis & Civium prædictorum ad dictos diem & locum distincte & aperte certifies hoc breve Nobis remittens. Et hoc nullatenus omittas. T. R. apud Westm. 27 die Aprilis.

Vic. Surr. de præmuniendo William de Cobham Militem, Thomam Dane Burgensem de Sudwicks, Petrum Somere Burgensem de Guildesford, & Johan. Bodekesham Burgensem de Blechpalegh.

Consimilia brevia diriguntur singulis Vicecom. per Angl. & Burg. sub eadem data, viz.

The Knights, Citizens, and Burgeses had Writs for their Expences in this meeting at Winchester, Cl. 45 Ed. 3. m. 22. Dors. T. R. 17 die Junii. And though in these Writs it is expressed by these words

T

Magnum

Cl. 45 Ed. 3. m. 22. Dors. T. R.

One Knight for a County, one Citizen for a City, one Burgess for a Burgh, and those named to the Sheriff.

Magnum Consilium nostrum, yet from this *Writ* of *Summons* it is evident, it did the Business of a Parliament, and so no great matter for the name.

In the same manner Writs were directed to all the Sheriffs in ENGLAND.

Cl 7 R. 2.
m. 32.

The King Dis-
chargeth one
of the Knights
of Surrey, be-
cause he was
a Banneret,
and directs
the Sheriff to
Choose ano-
ther.

Rex Vic. Surry salutem. Quia ut accepimus, tu Thomam Cam- A
moys Chivaler, qui Bannerettus est, sicut quamplures antecessorum suorum
extiterunt ad effendum unum Militum venientium ad Proximum Parlia-
mentum nostrum pro Communitate Comitatus prædicti, de assensu
eiusdem Comitatus, elegisti: Nos advertentes, quod hujusd. Baneretti
ante hæc tempora, in Milit. Comit. ratione alicujus Parl. eligi, mi-
nime consuev. ipsum de officio Militis ad dictum Parliamentum pro
communitate Comitatus prædicti venturi, exonerari volumus; Et ideo
tibi præcipimus, quod quendam alium Militem idoneum & discretum B
gladio cinctum loco ipsius Thome eligi, & eum ad diem & locum Par-
liamenti prædicti venire facias. Cum plena & sufficienti potestate ad
consentiend. hiis quæ in Parlamento prædicto fient, Juxta tenorem primi
brevis nostri tibi pro electione hujusmodi Militum directi; & nomen
ejus nobis scire facias. Teste Rege apud Westm. octavo die Octobris.

Consimile Breve dirigitur Vic. Surrey pro Jacobo Berners, qui C
est de retinentia Regis & familiaris & unus Militum Camera
Regis. T. R. apud Westm. 18 die Octob.

Fani

E

F

Jani Anglorum facies Antiqua :
OR SOME
ANIMADVERSIONS
UPON A
BOOK,
CALLED,
Jani Anglorum facies Nova.
With many Additions.



In the SAVOY,
Printed by T. N. for Samuel Lowndes, over against Exeter-
Exchange in the Strand. MDCLXXXIV.

1830:12

Animadversions

UPON A

B O O K,

CALLED,

Jani Anglorum facies Nova.

A S the Controversie between Mr. *Petit* and my Self, is concerning matter of Fact only; whether the **Commons** were, or were not, constituent parts of the Government or Common-Councils, before 49 of *Hen. 3.* So it is here, whether the **Common-Council** of the Kingdom mentioned in King *John's* Charter, was a General Council, as to all publick Matters and Buſineſs of the Kingdom; and whether he hath revived and cleared the Monuments of Antiquity, touching the Great Councils of the Kingdom, &c. from the first of *William* the First, to the 49 of *Hen. 3.* But this new Face-maker, new Government-maker, and new Parliament-maker, hath observed no Order or Method, and his Work being as wild, extravagant; and confused as his Notion, I can only pitch upon some parts of his Treatise, and those the most material, which are intelligible, and pass by his impertinent and unintelligible vagaries, until such time as (if he can) he makes them to be better understood, by explaining his meaning.

E That King *John's* **Charter** exhibits the full Form of our English Great and General Councils in those days; if I may so say, is the vulgar Error of our Learned Men, and 'tis that which hath given the only prejudice to the pains of the Judicious Mr. *Petit*, who, I must say, hath laid the Foundation and sure Rule of Understanding; the antient Records and Histories which mention the Great and General Councils in his distinctions between the Curia Regis & Commune, or Generale Concilium Regni, Barones Regis, & Barones Regni, &c.

Jan. Angl. p. 1.

F Whether Judicious Mr. *Petit* doth at all understand our antient Records and Histories, or whether the better for his ungrounded distinction of *Barones Regis*, and *Regni*, I leave the Impartial Reader to judge, when he hath perused this Answer, to his antient Right of the Commons Asserted.

Vid. Answ. fol. 112.

The Author calls for the words of King *John's* Charter, to observe whether they are meant of all General or Common-Councils, for making

P. 1.

making of Laws or voluntary Gifts to the Crown, or only of such as concerned the Kings immediate Tenents.

P. 1, 3.

Nullum Scutagium vel auxilium ponam in Regno nostro nisi per Commune consilium Regni nostri nisi ad Corpus nostrum redimendum, & ad primogenitum filium nostrum Militem faciendum, & ad primogenitam filiam nostram semel maritandam & ad hoc non fiet nisi rationabile auxilium; simili modo fiat de Civitate Londinensi & Civitas Londinensis habeat omnes antiquas Libertates, & liberas Consuetudines suas tam per terras quam per aquas. Præterea volumus & concedimus quod omnes alie Civitates & Burghi & Ville & Barones de Quinque Portibus & omnes Portus habeant omnes Libertates & liberas Consuetudines suas & ad habendum Commune Consilium Regni aliter quam in tribus Casibus prædictis.

A

From hence the new Face-maker infers, that the City of London, all Cities, Burghs, Parishes, or Townships, that is, the *Villani*, their Inhabitants, the Barons or Free-men of the five Ports, and all Ports should, amongst other Free Customs, enjoy their Right of being of, or constituting the Common-Council of the Kingdom.

B

* Pet. 15. Joh.
p. 2. m. 2.

Whereas the words of the Charter signifie no more than that, as in other parts of the Kingdom he would not exact Aid, without the Common-Council of the Kingdom, unless in three cases, to **Re-deem his Body, make his eldest Son a Knight, and Marry his eldest Daughter**; So it should be in the City of London, there should be no Aid taken of such as held their Houses in *Capite* of the King; but in the three Cases aforesaid, or concerning the * City it self, which held in *Capite*, and should pay no other Aid. *And that it should have all antient Liberties and free Customs, as well by Land as by Water*; that is, its local Customs of Buying, Selling, Trading, paying of Toll, Regulating several Matters in the City, punishing Offenders, making By-Laws, &c. And further, that all Cities, Burghs, Towns, Barons, or Free-men of the five Ports, and all other Ports, should have all their Liberties and Free Customs; that is, their Local Usages, which were then, and yet are various and different in some things, in all the Burghs, Cities, and Towns of *England*.

C

D

But for the Right of the Inhabitants of these places, of being of, or constituting the Common-Council of the Kingdom. This Gentleman should not only have said, and supposed such a Right, but ought to have proved that amongst their other Customs, this was one.

E

P. 3.

P. 4.

He proceeds and says, but so much is certain, that if these (Inhabitants he means) or any besides the Tenents in Capite, came before this Charter, and were at the making of it, their Right is preserved to them by it, and is confirmed by the Charter of Hen. 3. c. 9. which are almost the same words before recited, concerning the antient Rights of London, and other Cities and Burghs.

F

If he means by those that came before, and were at the making of the Charter, such as were Members of the Great Councils, and had Suffrages or Voices in them, and not the Numbers or Rabble that then

then

then attended such Conventions, he must first prove that the Inhabitants of Cities and Burghs were such, before he can say they had their Rights of being Members, &c. preserved to them, as was above intimated,

- A Immediately after, as an evidence of what was the Custom and Right of these Inhabitants, &c. and as to the Great Council of the Kingdom, he says, the Charters were made to, and in the presence of all the Clergy, Counts, Barons, and Free-men of the Kingdom, which proves not they had any Voice, or Suffrage in the making of them; nor indeed had they, for the Great Charters were only in the Petitions of the People, drawn into the Form of a Charter, and passed under the Kings Seal, as his meer voluntary free Grants and Concessions, without any Votes, Suffrages, or Authority of the People; and that they were taken as such, and so received by them.
- B The Preambles and Charters themselves are a sufficient Testimony.

Ibid. m.

Magna Charta
on Petitions
of the People
Granted by
the King.

First, King John's Charter, when he saw the Barons too powerful for him, then *Gratanter eis concederet leges & libertates quas petebant*, he willingly granted the Laws and Liberties which they asked or petitioned for.

Mat. Paris,
fol. 255. n. 30
50.

- C The Preamble of the Charter runs thus, *Johannes Dei Gratia Rex Angliæ, &c. Sciatis nos Intuitu Dei & pro salute anime nostræ, &c. per Consilium venerabilium Patrum, &c. Et nobilium virorum, &c. imprimis concessisse Deo, & hac præsentî Charta confirmasse pro nobis & heredibus nostris in perpetuum, quod Ecclesia Anglicana libera sit, & habeat jura sua integra, &c.* And in the Charter it self, *Concessimus etiam & omnibus liberis hominibus nostri Regni Angliæ, pro nobis & Heredibus nostris in perpetuum omnes libertates subscriptas habendas & tenendas eis & heredibus suis de nobis, & heredibus nostris;* (that is)
- D and we have also Granted to all our Free-men of the Kingdom of England, for us and our Heirs for ever, all the under-written Liberties, to Have and to Hold to them and their Heirs, of us and our Heirs, &c.

Ibid. fol. 256.
Lin. 18.

- E The Preamble of the Charter vulgarly attributed to Henry the Third, is clear in this case. *Henry* by the Grace of God, &c. Know ye, that we to the Honour of Almighty God, and for the Salvation of the Souls of our Progenitors and Successors Kings of England, to the advancement of Holy Church, and amendment of our Realm, of our meer and free will, have Given and Granted to all Archbishops, Bishops, Abbats, Priors, Earls, Barons, and to all Free-men of this our Realm, these Liberties following.

Pulten's Stat.
fol. 1.

And then as it is in the Charter it self.

- F First, We have Granted to God, and by this present Charter, have confirmed for Us and Our Heirs for ever, that the Church of England shall be Free, and shall have all her whole Rights inviolable.

Ibid. c. 1.

We have Granted also, and Given to all the Free-men of our Realm, for Us and our Heirs for ever, these Liberties under-written; to have and to hold to them and their Heirs, of Us, and our Heirs for ever

P. 3.

The meaning
of *Ville* in K.
John's Magna
Charta.
Tenures,
S. 6. 171.

ever, all Cities, Burghs, Parishes, or Townships; So he Translates *Ville*, as it follows *Civitates & Burgi* here in the Charter, but besides all reason in the World; for in this place *Ville & Burg* must be all one, or at least *Ville* must be meant of the small Towns incorporated; and *Burgi* of the Great ones, or the *Burgi Domini*, the Kings Burghs, or such as held of him *in Capite*: Littleton says, *Chescun Bourgh est une Ville, mes nemy è Converso*. Every Burgh is a Town, but every Town is not a Borough. And we have at this day many Towns in England which are Incorporated, and enjoy special Priviledges, though they are no Parliamentary Burghs, nor do send Burgeses to Parliament.

A

And in the Writs of Summons for Election of Parliament Bargeses.

Bundles of
Writs of Sum-
mons, 26 Ed. 3.

* Ibidem.

The Writs are thus most frequently Directed, as appears by the Bundles of Original Writs themselves. *Edwardus Dei Gratia Rex Angl. &c. Ballivis Ville de Sancto Botho salutem*, Edward by the Grace of God, King of England, &c. To the Bayliffs of the Town of Boston, Greeting. * *Conf. Brevia Diriguntur villis subscriptis, (viz.) Majori & Ballivis Ville Bristol, Ballivis Ville magna Fernemouth, Majori & Ballivis Ville de Kingston super Hul, Majori & Ballivis Ville de Lemne, Majori & Ballivis Ville Southampton, &c.* Of some of these *Ville*, must that word used in the place he cites be understood, for they were to have and enjoy *Omnes Libertates & Liberas consuetudines suas*, all their Liberties and Free Customs which they had and enjoyed before the making of the said Charter. What Liberties, what Free Customs did common ordinary Towns and Parishes ever enjoy? What Municipal Laws, what Private Laws and Priviledges had they? If they had none of these, they could not be the *Ville* here meant.

B

C

P. 4.

* Cl. 17. Joh
M. 2. Dorf.

But the Record he says, which Mr. Selden cites in his Titles of Honor, fol. 587. in the Margin, puts it out of all doubt, that the Charter was made by them all, (*viz.*) the Clergy, Counts, Barons, and Free-men of all the Kingdom; he gives us a parcel of it, as much as he thinks serves his turn. * *Hec est Conventio inter Dominum Johannem Regem Anglie ex una parte, & Robertum filium Walters Marefcallum Dei & Sancta Ecclesia, & Ric. Com. de Clare, &c. & alios Comites & Barones & Liberos homines totius Regni ex altera parte, &c.* This is the Agreement between John King of England on the one part, and Robert Fitz-Walter *Mareschal* of the Army of God and Holy Church, Richard Earl of Clare, and six Earls and six Barons more there named, and other Earls, Barons, and Free-men of the whole Kingdom. That is to say, that the Earls, Barons, and others before-written, should hold the City of London of the Livery and Grant of the King; and the Archbishop of Canterbury should hold the Tower of London of the same Livery and Grant, until the Oaths that all concerned were to take through the whole Nation, had been taken to observe the Commands of the * five and twenty Barons, which were chosen to compel the King to keep the Charters, &c. and for performance of other things relating thereto, the whole Record is published at the end of these Animadversions.

D

E

F

* Parli. fol. 261,
262.

But

But how by that he can make it out, that King John's Charter was made by all the Free-men of England, there seems to me not the least appearance. If under the words **Liberi homines**, all the Free-men, or Free-Tenents, of what condition soever, were comprehended; yet here is nothing in this Record, that any ways proves they made King John's Charter; but the *Liberi homines* here, were the same which the King calls *Liberi homines nostri* in his Charter, and immediately Grants them several Relaxations of the rigid Feudal Tenure, by which 'tis apparent, these *Liberi homines* were Tenents in Capite, and yet neither was the Charter made by them, as is before intimated. See more of *Liberi homines* in the Glossary under that Title.

Paris, fol. 256.
n. 10, 20, &c.

Liberi homines
in some places
of King John's
C. used for
Tenents in Ca-
pite.

But I will take the words together, even as they who are fond of the Conjecture of the Tenents in Capite, being the full Representative Body of the Nation would have it.

P. 6.

Et ad habendum Commune Consilium Regni de auxiliis assidendis aliter quam in tribus Casibus, & de scuragiis assidendis submoneri faciemus Archiep. Ep. Abb. & Majores Proceres Regni sigillatim per litteras nostras & praterea submoneri in generali per Vice-Comites, & Ballivos nostros omnes alios qui de nobis tenent in Capite ad certum Diem, scilicet ad terminum Quadraginta dierum ad minus, & ad certum locum, in omnibus literis submonitionis Causam submonitionis illius Exponemus, & sic facta submonitione negotium procedat ad diem assignatum, secundum consilium eorum, qui presentes fuerint, quamvis non omnes submoniti venerint.

It may very well be thought these words duely weighed and understood, were sufficient to satisfy any reasonable man, that the Tenents in Capite were a General Council, for the dispatch of all publick Business, and making voluntary Gifts to the Crown; for by them 'tis apparent they Assessed Aids, which were Publick Taxes upon all Persons of the Kingdom, that were able to pay them: for so much **auxilium** doth in this, and many other Records import, as in Pat. 8, 9. Johan. M. 3. Dorset. Rex omnibus, &c. Sciatis quod per commune consilium & assensum Concilii nostri apud Oxon. provisum est ad Defensionem Regni nostri & recuperationem Juris nostri concessum est, quod quilibet laicus homo totius Anglie de cujuscunque feodo sit, qui habet in Anglia redditus & catalla det nobis in auxilium de unaquaque mercata redditus sui annualis duodecim Denarios, & de unaquaque cujuscunque manerici catalli mobil. quam habuit in octabis purificationis Beate Marie scilicet ad terminum Concilii xii. Denar. &c. T. meipso apud Northampton xvii. die Febr. & Pat. 8, 9. Johannis numb. 2. Rex Archi. & officiali & toto Clero Archiepiscopatus Cantuar. salutem. Nostis satis quod Archiepiscopi Episcopi Abbates Priores & Magnates Regni nostri **auxilium** nobis fecerunt ad Defensionem Regni nostri & recuperationem terrarum nostrarum. Verum quia de vobis confidimus, quod nos & honorem nostrum diligitis, & Defensionem Regni nostri, & recuperationem terrarum nostrarum affectatis. Nos rogamus attentius quatenus tale **auxilium** nobis ex parte vestra faciatis, ut inde grates vobis facere debeamus, & quod alii Rectores Ecclesiarum vicini vestri ad **auxilium** nobis faciendum exemplo vestro facilius invitentur, &c. T. meipso apud Ebor. 26 Die Maii.

The Com-
mon-Council
in King John's
Charter, a Gen-
eral Council
of the King-
dom, &c.

This Aid Paris
calls Partem
terciam Deci-
mam, fol. 221.
lin. 49. and he
begins the
year always at
Christmas.

Note who
were the Com-
mune Consili-
um that gave
the Aid men-
tioned in the
former Record
An Aid.

V

Rex

Cl. 7. H. 3.
M. 23. Dorf.A Poll, or
Head-Tax.

Rex vic. Ranc. salutem, Scias quod exigente necessitate terra Sancta de novo provisum est & concessum coram nobis & consilio nostro presentibus Archi. Cantuar. Episcopis Comitibus & Magnatibus nostris de communi omnium voluntate, quod quilibet Comes conferat Domino Regi Jerusalem in auxilium terra predicta iii Marc. Baro i Marc. Miles xii Denar. Quilibet terram excolens i Denar. & quilibet qui terram non habet, catalla habens ad valenc. dimid. Marc. tam infra Civitates & Burgos quam extra similiter i Denar. &c.

A

Fol. 222.
n. 10. 20.

The xvth part of all the Moveables of England, as well of Ecclesiasticks as Laicks, which was given to Henry the Third in the Ninth of his Reign, by the Archbishops, Bishops, Earls, Barons, Abbats and Priors only, for the confirming of King John's Charter. *Mat. Paris* calls *auxilium*. See this Answer for the History of Granting that Charter, f. 125. F. 126.

B

Cl. 16. Hen. 3.
M. 2. Dorf.

The Fortieth part of all Moveables of the Subjects in general, Granted to Henry the Third the Sixteenth of his Reign, was called *auxilium* an Aid. *Concefferunt nobis in auxilium Quadragesimam partem omnium mobilium, &c.*

Cl. 21. Hen. 3.
M. 7. Dorf.

The Thirtieth part of all Moveables, &c. Granted to the same King, in the One and twentieth year of his Reign, was likewise called an *Auxilium* an Aid. *Nobis concefferunt in auxilium tricesimam partem omnium mobilium, &c.*

C

Now if (as is here shewn) by Records, before, and near the time of the Granting of King John's Charter, *Auxilia*, Aids, were a Thirteenth part of all Moveables, a Poll or Head-Tax; a fifteenth, fortieth, and thirtieth part of all Moveables of all the Subjects, and these to be assessed by the *Tenents in Capite*; not doubt but the *Tenents in Capite* were the General Council of the Nation, seeing they might Tax others besides themselves, that is, all the Subjects in the Nation.

D

Further, If they were a Great Council of the Kingdom for Aids and Escuage only (which is hardly reconcilable to Sense) why was the Cause of Summons to be Declared in every Writ of Summons to the great Barons and *Tenents in Capite*; if they were only summoned about Aids and Escuage, or other ordinary Business of course, the Cause of Summons needed not to have been Declared, *in omnibus Literis submonitionis causam submonitionis illius exponemus.*

E

Lastly, If all Free-men, or as our Author says in other places, all Proprietors were Members of the Great and General Council of the Nation; 'tis strange there should not have been the same care taken that they might be Summoned, as well as the *Tenents in Capite*; certainly they came not to them by Instinct, nor is it scarce probable that they would leave their Ploughs and Country Business, to travel from one remote part of England to another to these Great Councils, which seldom continued above three or four days, if they had had right so to do.

F

The truth is, there were not in William the Conqueror's Reign (as appears by an Alphabetical Catalogue made out of *Doomes-day Book*)

A Book) 700 *Tenents in Capite*, besides Bishops, Abbots, Priors, and Great Church-men, that held all the Lands in *England* of him, and all others that had any Estates, held of them by mean Tenure; and therefore it seems not unreasonable to think, that they should be bound by the Acts of those of whom they held their Estates. And out of these *Tenents in Capite*, 'tis highly probable (if not without doubt) that the two Knights were at first chosen by the other *Tenents in Capite*, in every County to represent them; and two Citizens and two Burgesses out of such Cities and Boroughs as held in *Capite* of the King, which were many, and were called *Civitates & Burgi Domini*.

B And though in process of time, many of these Estates and Lands became Free-Tenements, or were holden in Soccage, that is, were Freeholds, yet the Lords retained *Homage* (which in the times we write of, was no idle insignificant word) and by that, a Dominion over the Estate, whereby upon Disobedience, Treachery, Injury done to the Lord, &c. the Lands were forfeited to them; and although the Lands nor the Tenents of them which were termed Freeholders, were not subject to any base Services, or Servile works, yet the Lords had a great Power over these Tenents, by reason of their doing *Homage* to them (which is now Antiquated) for *Eo nomine*, their Lands were many ways liable to forfeiture.

Glanv. lib. 9.
c. 1, 2, 5.
Homage,
what advantage to the Lord.

C See more of several Great Councils in King John's and Henry the Third's time in this Answer, F.88.B.99, 139, 140, 141. wherein the Bishops, Earls, Barons, the *Nobiles, Magnates & Proceres* only, which very probably were the *Tenents in Capite*, that Treated with the King *de negotiis Regni, de arduis negotiis Regni, de statu Regni, &c.* and therefore were General Councils for all publick Business of the Kingdom.

D They were *Barones Majores*, that held not by any Feudal Tenure, &c. And particularly instanceth in the Earldom of Chester, that the County was given to Hugh Lupus, *Tenendum sibi & heredibus ita verè Libere* (as Camden hath it) *ad Gladium, sicut ipse Rex tenebat Angliam ad Coronam*. To hold as freely by the Sword, as the King himself held *England* by the Crown. By these words here is a Tenure created, and that *ad Gladium*, which could be no other than a Military Tenure, which was always Feudal; and this Tenure could be of no other, than either of the Conquerors Person, or of his Crown, for he gave the County to Hugh Lupus, and either way it was a Tenure in *Capite*, he was Sisters Son to the Conqueror, a Person of great Note amongst the *Normans*, and an expert Soldier, and had this County given him to restrain the Incurfions of the *Welsh*, and enlarge his, and the Conqueror's Dominions, which was his Military Service. In *Domesday-Book* 'tis said, *In Cestre-scire tenet Episcopus ejusdem Civitatis de Rege quod ad suum pertinet Episcopatum. Totam Reliquam terram Comitatus tenet Hugo Comes de Rege cum suis hominibus*. In *Cheshire*, the Bishop of that City holds what belongs to his Bishoprick of the King; the whole residue of the Land of the County, Earl Hugh holds of the King, with his Men, who were his Military Tenents, which with his Land, he held of the King.

Ibidem.

Britan. f. 464.
The Earl of Chester was a Feudal Tenant, and held in *Capite*.

Order. vital.
fol. 522. A.
Tit. *Cestre-scire*.

F

See the Chart.
in Leicester's
Remar. on
Chestr. fol. 109.

He was Founder of the Monastery of St. Werburgh in Chester, and both Founded and Endowed it Anno Dom. 1093. Concedente Rege Willielmo, by the Grant and Licence of King William, which was Rufus, a manifest Token he was under his Dominion.

Pat. 31. Hen. 3.
m. 5.
The Earldom
of Chester al-
ways belong-
ed to the
Crown.
Ord. vit.
fol. 521. D. &
522. B.

And that the County or Earldom of Chester had always a Dependence upon, and did always belong to the Crown, we have sufficient Testimony from Record, when it was annexed to the Crown, upon the death of John Scot Earl of Chester, without Issue, or Heirs-Male. Rex Baronibus, Militibus, liberis hominibus, &c. de Com. Cestr. salutem, sciatis quod predictum Comitatus Cestr. una cum Castris de Gamok & Dissard & omnibus ad ea pertinentibus retinenda duximus in manu nostra, at semper spectantia ad Coronam nostram, &c.

Roger de Montgomery was made Earl of Shrewsbury, and William Fitz-Osborn, Earl of Hereford, by the Conqueror; upon the same terms that they should repell the Welsh, and defend the Borders against them, and being of the greatest amongst the Normans, and William's chief Counsellors, had great Priviledges granted them in their Earldoms.

P. 8.

I do admit what our Author cites from Selden, and he from Malmsbury, That William Fitz-Osborn did make a Law, that Nullus Miles pro quocunque commisso plus septem solidis, cum in aliis Provinciis ob parvam occasiunculam in Transgressionem precepti herilis viginti, vel viginti quinque pendantur. No Knight, or rather Military Tenent, for any fault, should pay more than Seven shillings; whereas in other Counties, upon a small occasion, for the transgression of their Lords or Patrons Command, they paid 20 or 25 s.

Domesd. Ce-
steshire in Al-
tiscros Hund.

This was a Private Law to Military Men, and he that gave them Fees, might give them what private Laws he would, relating to them. 'Tis further probable, he brought this Law out of Normandy with him, and that it had been used in the Seigneurie of Breteuil whereof he was Lord; for he established the same Laws and Customs in Hereford, that were used there.

P. 9.

Fol. 372. n. 40.
Anno Dom.
1232. 16 Hen. 3

The King de-
mands Aid to
pay his Debts.

King Henry Summons all the Bagnates of England, ad Colloquium, because he was greatly in Debt, by reason of his Wars, he demands Auxilium ab omnibus generaliter; The Story he hath out of Mat. Paris, who hath it thus. Convenerant eo tempore, Nonas Martii ad Colloquium apud Westmonasterium ad vocationem Regis Bagnates Anglia, tam Laici, quam Prelati, quibus Rex proposuit, quod magnis esset debitis implicatus, causa bellica expeditionis, quam nuper egerit in partibus Transmarinis, unde necessitate compulsus, ab omnibus generaliter Auxilium postulavit. There met at that time on the Nones, or seventh of March, at a Colloquium, Conference or Parliament at Westminster, according to the Kings Summons; the Great Men of England, as well Lay-men as Prelates, to whom the King propounded, that being involved in great Debts, by reason of his late Transmarine Expedition, he was necessitated to require generally of them all an Aid.

And

And then follows, as 'tis in this Author, *2^o audito Comes Cestrie Ranulphus pro Magnatibus Regni loquens, respondet, quod Comites, Barones, ac Milites qui de eo tenebant in Capite, cum ipso erant ibi corporaliter presentes; Et Pecuniam suam ita inaniter Effuderant, quod inde Pauperes omnes recesserunt, unde Regi de Jure Auxilium non debebant, & sic petita Licentia Laici omnes recesserunt.* (Our Author hath left out the word **Laici** in his Book, because it manifestly destroys his Whimsy.)

P. 9. 10.

The Barons deny it.

Paris, ibid. lin. 50.

The words are thus to be Englished, which being heard (*viz.* the Kings demanding an Aid) *Ranulph* Earl of *Chester*, speaking for the Great Men of the Kingdom, answered, that the Earls, Barons, Knights, or Military-men that held of him *in Capite*, were with him corporally present in that Expedition, and had spent so much Money to no purpose, that they returned poor, and therefore of right they ought no Aid to the King; and so having asked leave, all the Lay-men departed. *Praelati vero Regi Respondentes, dixerunt, as Paris goes on, &c.*

This was a * Military Aid, that is **Scutage**, which was here demanded, as appears by the Earl of *Chester*'s Answer; for there is nothing more notorious than that, whenever the Military Tenents of the King, or any other Lord, were personally present in any Expedition, the Law was and the usage accordingly, that Scutage-Service was neither of right due from them, nor paid by them, but it was always levied of such as were absent, or *performed not their full Service; but Scutage was after granted as a Tax by common consent.

* Concessa sunt Regi Auxilia Militaria de quolibet Scuto 2 Marce & Dimid. 5 Johannis. 1204. Par. fol. 209. n. 30

After this denial of Scutage, asking leave, *Laici omnes recesserunt*, all the Lay-men departed. All the Lay-men certainly were Tenents *in Capite*; else, why did they depart upon affirming there was no Aid due to the King, because they had been all personally present with him in that Expedition, for which he demanded Aid.

Here was the Earl of *Chester* (meaning at this Colloque) this being a Summons to a General Assembly; but when the King asked Money for his Expences in the Wars, he tells him, in the name of all the **Laity**, that those which held of him *in Capite* (which is as much as to say, he was none of them) served them in their own Persons, and at their own Charge, therefore they begged leave to be gone, if the King had no other business with them.

P. 10.

This he confesseth was a General Council, and all the Lay-men were only Tenents *in Capite*, as appears above; and he here confesseth likewise, that they served in their own Persons, and at their own Charges: Let the Reader therefore judge, whether Tenents *in Capite*, were not the only constituent Members of Great Councils in these times.

It may be noted once for all, that if our Author finds any thing done in any Council, which he conceives doth favour his Fancy, that to be sure is a General Council; but if it be against him, then 'tis but Curia Ordinaria, or de More, and this he frequently avers, without sound Reason or Authority.

P. 10.

The Earl of *Chester* tells the King, in the name of all the **Laity**, that those which held of him *in Capite* (which is as much as to say, he was none of them) as is above recited; a very ridiculous Inference, and his Note on the Margin of this Page is as idle, where he says, without Authority the Earl of *Chester* was not to attend the King in his Wars,

nor

This *Ranulph* was Earl of *Chester* above 50 years, from 27 *Hen. 2.* 1181 to the latter end of the 16. *Hen. 3.* 1232. *Dugd. Bar.* Tom. 1. fol. 41. Col. 2. fol. 45. Col. 2. Paris, fol. 367. n. 10. & f. 369. n. 30.

nor to pay *Escuage* in lieu of Military Service, because all his *Tenure* was to keep to the Defence of the *Marches* (of *Wales* he means.) For ought our Author knows, what he says of the Earl of *Chester* might be true. But this same very *Ranulph* was with King *John* in an Expedition into *Poitou*, in the 15th of his Reign. *Clau. 15. Johannis m. 1. Dorf.* And in the 16th of the same King he paid *Scutage* for not being with him in an Expedition thither. *Cl. 16. Johannis m. 15. Dorf.* In the Sixth of *Richard the First*, he was in *Nor-* A
mandy with King *Richard's* Army. *Rot. Pip. 6. R. 1. Buck. & Bedf.* upon these *Pipe-Rolls* all the *Tenents in Capite* are entred, who performed their Service, who not, with their *Scutages*. Nay more than all this, he was with the King in the Expedition we are writing of into *Gascoign*, *Poitou*, and *Britan* in *France*; in which he told the King, the *Tenents in Capite* had consumed their Money, &c. and stayed in those Wars near a year after the King returned into *England*, when he and the Earl of *Britan* made Truce with the King B
of *France* for three years, on behalf of the King of *England*. These are certain marks the Earls of *Chester* were Feudal *Tenents*, and not Soverain free Princes, as this Gentleman would have them to be; and if he will require more of me, I can let him have them.

And he may further take notice, that though the Earl of *Chester*, and *Tenents in Capite* were averse at this time to Grant the King *Scutage*, to pay his Debt contracted in this Expedition; yet about six months afterward, upon the 14th of *September* following, they granted him the 40th part of all *Moveables* for the payment of it. C

Ibid. fol. 377. n. 50 A. D. 232. 16 *Johannis*. A Grant of a 40th part of *Moveables*.

Convenerunt tempestate eadem apud Lambeian ad Colloquium in ex-
altatione Sancte Crucis, coram Rege Episcopi, & alii Ecclesiarum Pre-
lari cum Proteribus Regni, ubi concessa est Regi pro debitis quibus Co-
miti Britannia tenebatur astrictus, quadragessima pars rerum mobilium,
ab Episcopis, Abbatibus, Prioribus, Clericis & Laicis. D

There can be no doubt, but *Proceres Regni* here, were the same that *Magnates Anglia* were in the other *Colloquium*, on the seventh of *March* next preceding this.

P. 15.

What he further urges for the Earls of *Chester's* Independencies of the Crown, they are Priviledges which are to be found almost in every Royalty and Liberty in *England*, and were originally Indul- E
gences and Grants from the Kings of *England*, by which (no man that hath any Sense) can believe they ever intended to Ruine themselves, or the Rights of the Crown; but rather supposed a Return of Duty and Obedience; those Favours being founded upon a Recipro- cation of Gratitude.

But there is a further irrefragable Argument in the Negative, viz. F
That this Commune Concilium (meaning that constituted by King *John's* Charter) was not the Grant Council of the Nation. And that is the Judgment of a whole Parliament in the 40th of *Edward the Third*. It appears by the History, that King *John* had resigned his Crown in such a Council as this here; it was *Communi Consilio Baronum nostrorum*; and yet the Prelates, Dukes, Counts, Barons and Commons, upon full deliberation in Parliament, Resolve, that the Resignation was void,

void, being contrary to the Kings Oath, in that 'twas Sans leur assent, without their assent, and the King could not bring the Realm in Subjection, Sans assent de eux.

A No man I think will say, a whole Parliament is infallible ; there have been many Acts and Clauses of Acts of Parliament, nay, the whole Proceedings of some whole Parliaments revoked by other whole Parliaments, which ought not to have been done, if a whole Parliament had, or could have been infallible ; and in this very Case, the whole Parliament was doubtful of Matter of Fact, (so little knowing they were of what had been done before their times.) For in this very Roll it is said, n. 8. *per Pleursieurs Evidences apert que si ce fust fait, ce fust fait sanz leur assent*, that is, by many Evidences it appears, that if it was done (that is, if King John had resigned the Crown to the Pope) it was done without their Assent, that is, without the Assent of a General Council, Colloquium or Parliament in those times when it was done ; or which is all one, without the consent of the Nation.

B Our Author says, *It appears by the History, that King John in such a Council as was constituted by his Magna Charta, Resigned his Crown*, which cannot be true ; for he resigned his Crown the 15th of May, in the 14th of his Reign, and he Granted that Great Charter of Liberties three years after, on the 15th of June, in the 17th of his Reign, and therefore he could not Resign it in such a Council as was constituted three years after his Resignation : and the History it self informs us otherwise.

C For the King of France had raised the Force of his Kingdom to seize the Kingdom of England, it being given to him by the Pope, when he had Deposed King John, who Summons all the Force of his Kingdom to appear at Dover, in the close of Easter, to oppose the King of France, and while with a vast Army he expected his Landing, Pandulph, the Popes Legate, came over to King John, and recounting the numerous Army, Power, and Force of the King of France, and telling him that he boasted he had Assurance by the Charters of almost all the Great Men of England, of their Fidelity and Subjection to him ; he so affrighted and confounded King John, that fearing when he came to Fight he should be left alone, or delivered to his Enemies to be destroyed by them ; he acquiesced in the Perswasions of Pandulph, which was to gratifie the prescribed Bishops, Canterbury, London, Ely, Hereford, Bath, and Lincoln, the Prior and Monks of Canterbury, Rob. Fitz-Walter, Eustace de Vesci, and all the Clergy and Laity that were concerned in the Election of, and sided with Stephan Langton Archbishop of Canterbury, in all their Demands, and Resign his Crown to the Pope.

F Indeed it is said in the Chart of Resignation, that it was done *Consilio Baronum nostrorum*, by the Counsel of his Barons. And it was executed in the House of the Templars near Dover, *Coram H. Dublinensi Archiepiscopo, Johanne Norwicensi Episcopo, Galfrido Filio Petri, W. Comite Sarisberie, W. Comite Pembroc. R. Comite Bononia, W. Comite Warennæ, S. Comite Winton, W. Comite Arundel, W. Comite de Ferrariis, W. Briwer, Petro Filio Herberti, Warnio Filio Geroldi, &c.* in

See the Judgment of the Parliament in this Case, in this Answer, fol. 70. and what it was.

P. 15.
Paris, fol. 237.
l. 20.

Ibid. fol. 262.
l. 5.

Ibid. fol. 233.
n. 20, 30.
Why K. John
Resigned his
Crown.
Ibid. & f. 234.
n. 10, 20.

Ibid. lin. 28.
Ibid. lin. 37.

Ibid. lin. 45.
Ibid. lin. 55.
Ibid. fol. 235.
lin. 5.
Ibid. lin. 10.

Ibid. n. 20.
Ibid. fol. 236.
n. 30, 40, &c.

Ibid. lin. 52.

Ibid. fol. 237.
l. 17. Where,
and before
whom K. John
Resigned his
Crown.

in the Prefence of two Bishops, the Justiciary, seven Earls, and three Barons, without subjoyning, *Et aliis Episcopis, Comitibus & Baronibus*; or, *Et Communitate*; or *Tota Communitate*; or any other Note that there were more present.

Ibid. 134. l. 1, 2.

This being therefore a Military Summons, for the gathering together of an Army, and the appearance of all Men with Horse and Arms, and other Foot-Arms, and Weapons at *Dover*, the place appointed for the Rendezvous; and the Assembly being an Army, and the five prescribed Bishops being in *France*, and the Barons that sided with them, fled beyond Sea, or not daring to appear. And further, the Resignation having been executed before so small a number of Barons, without probability of more being present; this could not be such a Council as was Constituted by King *John's* Charter; that is, it was not a Parliamentary Council, or Colloquium, or General Representative of the Nation, and therefore the Parliament in the Fortieth of *Edward* the Third, might well say, the Resignation was made without their Assent; and thus falls his irrefragable Negative Argument, and comes to nothing.

P. 20.

If no Instance can be shewn from Record or History of Auxilia or Aids, raised by the Kings of England, without more general consent, except such as were raised of his immediate Tenents, &c.

General Taxes
or Aids imposed
upon the
Tenents in Ca-
pite.

There have been several Instances given already in these Animadversions, that *Auxilia* Aids have been given with no more general Consent, than that mentioned in King *John's* Charter; as for example, a thirteenth, fifteenth, thirtieth, fortieth part of all Moveables, and a Poll or Head-Tax imposed upon all Subjects in general that were able to pay; in which Instances, the Difference between Scutage or Military Aids raised upon Knights Fees only, and other Aids, Taxes, or Tallages, may easily be discerned.

P. 25.
De Term.
Hillar. 39 Hen.
3. Penes Re-
mem. Regis in
Scaccario.

He says, the City of London being charged with a Tallage, the Common Council dispute, Whether it were Tallagium or Auxilium, which is there meant of a Voluntary Aid, not due upon the account of any of their Houses, being of the King's Demeasn; though indeed 'tis then shewn that they had several times before been Talliated.

P. 26.

This explains that part of the Charter, Simili modo fiat de Auxiliis de Civitate London; that is, as in all such Cases besides those excepted, Escuage or Tallage should not be raised but by a Common Council of the Kingdom; that is, of all the Persons concerned to pay. So for the City of London, unless the Aid were ordered in Common Council, wherein they, and all other Tenents in Chief were assembled, none should be laid upon any Citizens, but by the consent of their own Common Council; and if the Ordinance were only in general Terms, that all the King's Demeasns should be Talliated, the Proportions payable, there should be agreed by the Common Council of the City, according to that Record, 11 Hen. III. Assedimus Auxilium Efficax in Civitate nostra London; ita quod singulos tam Majores, quam Minores, de voluntate omnium Baronum nostrorum Civitatis ejusdem per se Talliavimus, & ideo providimus simul Auxilium per omnes Civitates nostras, Burgos & Dominica nostra assidere.

This

This per se Talliavimus was a Talliating per Capita; for when the Common Council refused to give such a Sum in Gros as the King demanded, then the King was put to have it Collected of every Head, what is, according to the Faculty of every Soccage Tenent of his Demeasn, as appears by the Record, 39 Hen. III. meaning that cited before in his Margent.

P. 26, 27.

- A What our Writer means by these three senseless impertinent Paragraphs, I do not well understand, unless it be that Cities and Burghs were not Taxed, or Assessed toward any Payments, but by their own Common Councils; or that they, as part of the Common Council of the Land, Taxed themselves. For what he says, that after a Tax or Aid was imposed upon Cities and Burghs, the Inhabitants met to proportion it, so as it might be paid with as much equality as could be; if they would, they always did it, and this sense which he puts upon the Record, 11 Hen. III. is nothing to his purpose.
- B

I could not find this Record.

But he having grounded these three Paragraphs, and somewhat more that follows, upon the Record which he cites in his Margin, p. 26. not mentioning any thing of the Record it self, I shall here publish the whole, and give him leave to make the best of it.

C

D

E

X

R E X

F

Term Hillar.
39 Hen. 3.
Penes Remem.
Regis in Eccl.
Pro Rege tan-
gen. Cives
Lond.

Hen. de Ba-
thon &c. were
Barons of the
Exchequer,
and Justices
Itinerant.
Sr. Martins Le
Grand in
London.

Penes Camer.
Fol. 41. a.
How Taxes
were Levied
in Cities and
Burghs in Hen.
II. his Reign.

REX Mand. Baron. quod Anno Regni sui xxxix. post redit. suum de Vascon. post festum Sancti Hillarii apud Merton provisum fuit per Consilium Regis quod Talliaret Dominica sua per Angliam pro gravibus expensis factis dum fuit in partibus transmarinis. Et cum Cives London, vocati essent coram Rege & Consilio suo apud Merton ad Talliandum prædictam Civitatem, venit Radulphus Hardell tunc Major Civitatis London cum pluribus aliis de eadem Civitate. Et Rex petebat ab eis tria mill. Merc. nomine Tall. & illi habito Consilio cum Concivibus suis venerunt ibidem & optulerunt Regi duo mill. Merc. nomine Auxilii, & dixerunt præcise plus non poterint dare, nec darent. Et tunc Rex de Consilio suo misit Phil. Lovell Thes. suum, Henric. de Bathon. Petrum de Kivall. Roger. de Turkelby apud Sanctum Martinum ad recipiend. finem trium mill. Merc. pro Tall. si intrare vellent sicut eis prius dictum fuit, & si nollent tunc assident. Tall. illud in Civitate per Capita. Et omnes prædicti ibidem venerunt. Et cum prædicti Cives nolissent intrare finem. prædict. trium mill. Merc. prædicti Thes. & alii voluerunt assidere illud Tall. per Capita & quod quilibet juraret catalla alterius. Et cum ipsi nolissent facere Sacrament. nec etiam dicere in fide qua Regi tenebantur de Catall. singulorum, dicti Thes. & alii inde recesserunt infecto Negotio illo. Postea venerunt prædicti Cives coram Rege apud Westm. die Dominica proxima post Purif. Beate Marie Virgin. anno prædicto & coram Consilio suo, (viz.) R. Com. Cornub. fratre Regis, R. de Clare Com. Glouc. & Hertf. A Wynton Episcopo W. Wigorn. Episcopo & aliis de Consilio suo. Et cum contentio esset utrum hoc dici debet Tall. vel Auxilium, Rex **Scrutari** fecit rotulos suos utrum ipsi aliquid **Dederunt** Regi vel antecessoribus suis nomine Tall. Et **Scrutatis Rotulis** compertum est tam in rotul. de **Stat.** quam de **Cancellar.** quod tempore Domini Johannis Patris Domini Regis anno ejusdem Johannis sexto decimo **Talliati** fuerunt prædict. Cives London ad duo mill. Marc. ad relaxationem interdicti, & anno Regni Regis septimo Talliati fuer. ad mill. Libr. Et anno xxvi. dederunt mill. Libr. pro Tall. ea vice. Et anno xxix. Tall. fuerunt ad duo mill. Merc. Et anno xxxiii. ad mill. Libr. Et anno xxxvii. dederunt mill. Merc. & xx. Merc. auri pro Tall. Postea in **Craftin.** (scilicet) die Lune proxima post festum Pur. beat. Marie Virgin. venerunt prædict. Randulphus Hardell Major & Cives & recognover. se esse Talliabiles & dederunt Regi tria mill. Merc. pro Tall. Test. apud Westm. xiv. die Februarii anno, &c. Bre. est in for. Mar.

Examinat.

How it appears by this Record that the Common-Council of London Taxed the City, or that the City was not Taxed without their own consent, let the Reader judge; it seems to be plain by the Record, that the King by the advice of his Privy-Council Taxed it.

If we look back into the Reign of Henry the Second, we shall see how Cities and Burghs were Taxed in his Reign. *Plurimum Interest*, says the Black Book in the Exchequer, (Dedicated to that King) *si Donum vel Auxilium Civitatis per singula Capita Commorantium in eâ à Justiciariis Constituatur. Vel si Cives summam aliquam, quæ princepe*

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cipe digna videatur Justiciariis offerant, & ab eis suscipiatur. Dispar enim in his Duobus, Modus Coercionis est.

A The Usage was then, that either the Kings Justices Taxed the Cities and Burghs, or the Citizens and Burgesles offered a Sum to the Justices, which oft times was accepted: In both these Cases there was a different way of forcing the Payment of it; and this Gift or Aid of the Citizens, is in this Book otherwise called *Conventio*, or *Sponte Oblatum*, a Bargain, or Composition with the Justices for the Tax, or a Benevolence in stead of it.

B This makes the meaning of the Record more plain, and shews the Reason why the Mayor and Citizens of London refused at first to pay 3000 Marks, and freely offered 2000; and why there arose a Contention whether what was demanded, was to be called an Imposition or Voluntary Gift. And likewise shews the reason why London, and other Cities and Burghs, according to the Law of King John's Charter, were to be Assessed and Taxed by the Common Council of the Kingdom, as well as the Kingdom it self; for doubtless the Kingdom had been Taxed by our antient Kings and their Privy-Council only, before the granting of that Law in King John's Charter; otherwise what can the meaning of those words be, *Nullum Scutagium vel Auxilium ponam in Regno nostro, nisi per Commune Concilium Regni nostri*, (unless in the three excepted Cases) &c. If they were not intended to restrain the King from Levying of publick Taxes, without publick Consent?

D The reason of this Article in King John's Charter, is Argument sufficient to prove, that the Common-Council mentioned in it, was the Great and Common-Council of the Kingdom to all intents and purposes, if there had been no other.

E For Henry the Third several times after this Charter was granted, and Edward the First, Taxed their Demeasns through England, though not the whole Kingdom, by Advice and Consent of their Privy-Councils only, until the Statute *De Tallagio non Concedendo* was made 34 Edw. I. And both Richard the First and King John had Taxed the whole Kingdom without common assent, before the Grant of *Magna Charta*.

F Richard the First, Anno 1198. in the Ninth year of his Reign, *Accepit de unâquaque Carucata Terræ totius Angliæ V. Solidos de Auxilio ad Quos Colligendos Misit Idem Rex per singulos Comitatus Angl. unum Clericum, & etiam Militem, qui cum Vicecom. Comitatus ad quem Mittebantur, & Legalibus Militibus ad hoc electis præstito Juramento quod fideliter exequerentur Negotium Regis, fecerunt venire coram se Senescallos Baron. istius Comitatus, & de qualibet Villa Dominum vel Ballivum Villa, & præpositum cum quatuor legal. hominibus Villa, sive (a) Liberis, sive (b) Rusticis, who were to swear how many plough Lands there were in every Town. Et super singula Carucarum * Wannagia ponebant, ex præcepto Regis; primo duos*

Rot. 1. Hen. 3. M. 19. The Record above-cited concerning London, Co. 2. Instit. Fol. 531.

Hoved. f. 442. b. n. 10. f. 443. a. n. 10. 20.

(a) Tenants in Military Service, or Gentlemen.

(b) Soccagers, Possessors or Freeholders in Soccage only.

* *Carucarum Wannagia*; that is, Plough-Tilths; *Wannagia* being put for *Gainagia*, Tillage or Husbandry.

Solidos, postea 3 Solidos, &c. Ad pœnam vero Juratorum qui aliquid contra Juramentum eorum Celaverint in hoc Negotio, Statutum erat, quod quicumque Rusticus Convictus fuerit de perjurio, daret Domino meliorem Bovem de Carna sua, atque insuper responderet de proprio ad opus Domini Regis tantum pecunie quantum fuisset declaratum per suum perjurium fuisse celatum. Si vero Liber homo Convictus fuisset, esset in Misericordia Regis, & insuper refunderet sicut Rusticus.

* Libera feoda Ecclesiar. &c. that is, the Knights Fees, or Maners annexed to Parochial Churches.

* Libera Feoda Ecclesiarum Parochialium, de hoc Tallagio Excipiebantur.

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The full Form of setting and Levying this Tax is set forth in this Relation of *Hoveden*, who lived at the time, and was a Man of Employment under King *Richard*; and 'tis observable, he useth both the word *Auxilium* and *Tallagium* for this very same Tax. But *Auxilium* was the most general word used for all sorts of Taxes and Impositions, before the Statute *De Tallagio non Concedendo*, as may be observed from the Records before cited.

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Paris, fol. 109. n. 20. A. D. 120.

King *John* took a seventh part of all Moveables without common assent; and another time a thirteenth, the Great Men and Clergy grumbling at it.

Rot. Cl. 33. Hen. 3. m. 14.

King *Henry* the Third Taxed his Demeasns in the 33th of his Reign. *Quia Rex Talliari facit Dominica sua, Mandatum est Vicecom. Bucks quod habere faciat Philippo Basset rationabile Tallagium de hominibus suis de eo Tenentibus in Manerio de Wycumb, quod aliquando fuit Dominicum predecessorum Regis Regum Anglie, Teste Rege apud Westm. 28 die Decemb.*

C

Cl. 52 H. 3. M. 11. Dorf.

In the 52^d of his Reign, he Taxed his Lands beyond *Trent*, by his Escheator *John de Rygate* and *Walter de Stokes*; and in several other years.

Ryley's Placita, Parl. f. 246. Our Antient Kings did de Jure Tax their Demeasns.

And this Right it self was acknowledged by the Barons in the 33th of *Edward* the First, as appears by their Petition to him in Parliament. *Ad Petitionem Archiepiscoporum, Episcoporum, Prelatorum, Comitum, Baronum, & aliorum proborum hominum, de Terra, petentium quod Rex concedere velit, quod possint Talliare antiqua Dominica unde sunt in Tenancia, desicut Rex Dominica sua Talliabit, ita Responsum est. Fiat ut Petitur, &c.*

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F

Claus.

Claus. 17 Joh. M. 21 Dorf.

HÆc est Conventio inter Dominum Johannem Regem Angliæ ex una parte, & Robertum filium Walteri Eareschallum Exercitus Dei, & Sanctæ Ecclesiæ in Anglia, & Ricardum Com. de Clare, Galfridum Com. Essex & Glouc. Rogerum Eygod Com. Norff. & Suffol. h. saherum Com. Wynton, Robertum Com. Oxon. H. Com. Heref. & Barones Subscriptos scilicet. W. Marisc. juni rem, Eustach. de Vescy, Will. de Moray Johannem fil. Roberti Rogerum de Monte Begon. Will. de Lanvalay & alios Comites & Barones & liberos homines totius Regni ex altera parte. Videlicet, quod ipsi Com. & Barones, & alii præscripti tenebunt Civitatem London de Ballivo Domini Regis, Salvis interim Domino Regi firmis, redditibus, & claris debitis suis usque ad assumptionem Beatæ Mariæ, Anno, &c. decimo septimo. Et Dominus Cantuariensis Archiepiscopus tenebit similiter de Ballivo Domini Regis Turrim London usque ad prædictum terminum, salvis Civitati London libertatibus suis, & liberis consuetudinibus suis, & salvo cuilibet jure suo, in Custodia Turris London. Et ita quod interim non ponat Dominus Rex munitionem vel vires alijs in Civitate prædicta, vel in Turri London. Fiant etiam infra prædictum terminum Sacramenta per totam Angliam viginti quinque Baronibus sicut continetur in Charta de libertatibus & securitate Regno concessis, vel Attornatis viginti quinque Baron. sicut continetur in litteris de duodecim militibus eligendis, ad delend. malas consuetudines de Forestis & alijs. Et præterea infra eundem terminum omnia quæ Comites & Barones & alii liberi homines petunt à Domino Rege quæ ipse dixerit esse reddenda vel quæ per viginti quinque Barones aut per majorem partem eorum judicata fuerint esse reddenda reddantur secundum formam prædictæ Chartæ. Et si hæc facta fuerint vel per Dominum Regem non steterit quo minus ista facta fuerint infra prædictum terminum Civitas & Turris London ad eundem terminum statim reddantur Domino Regi, Salvis prædictæ Civitati libertatibus & liberis consuetudinibus suis, sicut præscriptum est. Et si hæc facta non fuerint, & per Dominum Regem steterit, quod ista non fiant, infra prædictum terminum, Barones tenebunt Civitatem prædictam, & Dominus Archiepiscopus Turrim London, donec prædicta compleantur. Et interim omnes ex utraque parte recuperabunt terras Castra & villas, quas habuerunt in initio Gwerræ ortæ, inter Dominum Regem, & Barones.

N. 1. Animad.
P. 9.

Rot. Pat. 6. Jo. M. 2 Dorfo.

REX, &c. Vicecom. Rotel. &c. Scias, quod provisum est communi assensu Archiepiscoporum, Episcoporum, Comitum, Baronum, & omnium fidelium nostrorum Angl. quod Robem Milites per totam Angliam invenient Decimum Militem bene paratum equis & armis ad defensionem Regni nostri, & quod illi Robem Milites invenient decimo Militi qualibet die ii s. ad liberationem suam, & ideo tibi precipimus quod sicut teipsum & omnia tua diligis, provideas quod Decimi Milites de Balliva tua sint apud Lond. a die Pasch. in tres septimanas bene parati equis & armis cum liberationibus suis sicut prædictum est, parati ire in servitium nostrum quo præcepimus & existere in servitio

N. 1.

Vide M. Paris,
fol. 99. n. 50.
duo Milites
tertium invenient.

vitio nostro ad defensionem Regni nostri quantum opus fuerit. Provisum est etiam quod si alienigena in terram nostram venerint omnes unanimiter eis occurrunt cum forcia & armis sine aliqua occasione & dilati-
 one auditis rumoribus de eorum adventu, & si quis Miles vel Ser-
 biens vel alius Terram Tenens inventus fuerit qui se inde retraxerit
 dummodo tanta non fuerit gravatus infirmitate quod illuc venire non
 possit, ipse & heredes sui imperpetuum exheredebantur & feodum suum
 remanebit Domino fundi ad faciend. inde voluntatem suam. Ita quod
 exheredatus vel heredes sui nunquam inde aliquam habeat recuperationem.
 Si quis vero Milites Serbientes vel alii qui terram non habent in-
 venti fuerint qui se similiter retraxerint, ipsi & heredes sui serbi fient
 imperpetuum reddendo singulis annis iiii d. de capitibus suis nec pro pau-
 pertate omittant ad predictum negotium venire cum illud audierint quia
 ex quo ad exercitum venerint providebitur unde sufficienter in servitio
 nostro poterunt sustentari. si vero Vic. vel Ballivos vel Prapostos illos
 qui se retraxerunt nob. per bre. vel per scriptum, vel viva voce non
 ostenderit dict. Vic. vel Ball. vel Prapost. remanebit in misericordia
 nostra de Clita & Dembris. Et ideo tibi precipimus quod sub festina-
 tione hec omnia proclamari facias in foris per totam Ballivam tuam &
 in Mercatis & Nundinis & alibi & ita te de negotio illo faciendo intro-
 mittas quod ad te pro defectu tui capere non debeamus, & in ipse sis apud
 London ad prefatum terminum vel aliquem discretum ex parte tua mit-
 tas & facias tunc nob. scire nomina decimorum Militum, Et habeas ibi
 hoc bre. T. meipso apud Winton tertio die Apr.

Any Man that reads the Record, cannot but believe the Nine
 Knights, and the Tenth also which they were to find, were all Te-
 nents in Military Service: for besides that, they were such as had
 their Horse and Arms ready, the Tenth Knight had good Pay or
 Wages allowed him; two Shillings a day, in the Sixth of King John
 Anno Dom. 1205. 465 years since, was as much then, as thirty Shil-
 lings a day now; too great an Allowance for an ordinary Free-
 holder. In small Expeditions, where a small number of Horse were
 sufficient, this course was taken to save Charges.

Who in case of Foreign Invasion, were to appear in Arms for the
 Defence of the Kingdom, under pain of Forfeiture of their Lands to
 their Lord of whom they held, without hopes of recovery by them
 or their Heirs.

The Constituent parts of this Great Council mentioned in this Re-
 cord are observable, which were the Archbishops, Bishops, Earls,
 Barons, & omnes fideles nostri Anglie, which were the Tenents in Ca-
 pite, the omnes alii qui de nobis Tenent in Capite, according to the
 great Charter granted afterwards in the Seventeenth of his Reign.

See more in
 the Answer,
 p. 182. 183.

EBOR-

EBORASCIRA.

Carta Domini Rogeri Eboracensis Archiepiscopi
de Militibus suis fefatis.

A

A Mantissimo Domino suo Henrico Dei gratia Regi Anglia & Duci

E lib. rubro
in Scaccario.

B

Normannia, & Aquitannia, & Comiti Andegavia, suis Rogerus eadem gratia Eboraci Archiepiscopo Apostolica sedis Legatus, salutem. Præcepit Dignitas vestra omnibus fidelibus vestris Clericis & Laicis qui de vobis tenent in Capite in Eborascira, ut mandent vobis per literas suas extra sigillum pendentes, quot Milites fefatos quisque

C

habet de veteri fefamento de tempore Regis Henrici avi vestri, de die & anno quo ipse fuit vivus & mortuus, & quot habeat de novo fefamento fefatos, post mortem bone memoria avi vestri ejusdem. Et quot feoda Militum sunt super **Dominiū** uniuscujusque, & omnium illorum nomina fefatorum, tam de novo fefamento, quam de veteri, sint in illo brevi scripta, quia vultis quod si aliqui ibi sunt qui nondum fecerunt vobis **Ligantiam**, & quorum nomina non sunt scripta in Rotulo vestro, qui infra Dominicam primam quadragesimæ **Ligantiam** vobis faciant, quorum ego unus iussioni vestræ per omnia subiectus cum omni diligentia investigavi in **Tenemento** meo, prout brevitatis temporis passa est, & presenti scripto vobis Domino meo significo. **Imprimis**, ergo sciatis Domine, quod super **Dominiū** Archiepiscopatus Eboraci nullum feodum est Militum cum tot habemus fefatos Milites, per quos acquie-

D

tavimus omne servitium quod vobis debemus, sicut & præcessores nostri fecerunt, & plures etiam habemus, quam vobis debeamus sicut ex presenti subscripto, cognoscere poteritis, Antecessores enim nostri, non pro necessitate servitii quod debent, set quia cognatis, & servientibus suis providere volebant, plures quam debebant Regi feodaverunt.

E

F

Nomina

Solidos, postea 3 Solidos, &c. Ad pœnam vero Juratorum qui aliquid contra Juramentum eorum Celaverint in hoc Negotio, Statutum erat, quod quicumque Rusticus Convictus fuerit de perjurio, daret Domino meliorem Bovem de Carna sua, atque insuper responderet de proprio ad opus Domini Regis tantum pecunie quantum fuisset declaratum per suum perjurium fuisse celatum. Si vero Liber homo Convictus fuisset, esset in Misericordia Regis, & insuper refunderet sicut Rusticus.

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C

Ch. 52 H. 3. M. 11. Dorf.

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N. i. Animad.
P. 9.

Rot. Pat. 6. Jo. M. 2 Dorso.

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F vitiis

N. i.

Vide Rot. Pat.,
fol. 99. n. 50.
duo Milites
tertium invenient.

vitio nostro ad defensionem Regni nostri quantum opus fuerit. Provisum est etiam quod si alienigenæ in terram nostram venerint omnes unanimiter eis occurrunt cum forcia & armis sine aliqua occasione & dilatione auditis rumoribus de eorum adventu, & si quis Miles vel Serbiens vel alius Terram Tenens inventus fuerit qui se inde retraxerit dummodo tanta non fuerit gravatus infirmitate quod illuc venire non possit, ipse & heredes sui imperpetuum exheredebantur & feodum suum remanebit Domino fundi ad faciend. inde voluntatem suam. Ita quod exheredatus vel heredes sui nunquam inde aliquam habeat recuperationem. Si quis vero Milites Serbientes vel alii qui terram non habent inventi fuerint qui se similiter retraxerint, ipsi & heredes sui serbi sicut imperpetuum reddendo singulis annis iiii d. de capitibus suis nec pro paupertate omittant ad prædictum negotium venire cum illud audierint quia ex quo ad exercitum venerint providebitur unde sufficienter in servitio nostro poterunt sustentari. si vero Vic. vel Ballivos vel Præpositos illos qui se retraxerunt nob. per bre. vel per scriptum, vel viva voce non ostenderint dict. Vic. vel Ball. vel Præposit. remanebit in misericordia nostra de Vita & Membris. Et ideo tibi præcipimus quod sub festinatione hæc omnia proclamari facias in foris per totam Ballivam tuam & in Mercatis & Nundinis & alibi & ita te de negotio illo faciendo intro-mittas quod ad te pro defectu tui capere non debeamus, & in ipse sis apud London ad præfatum terminum vel aliquem discretum ex parte tua mit-tas & facias tunc nob. scire nomina decimorum Militum, Et habeas ibi hoc bre. T. meipso apud Winton tertio die Apr.

Any Man that reads the Record, cannot but believe the Nine Knights, and the Tenth also which they were to find, were all Tenents in Military Service: for besides that, they were such as had their Horse and Arms ready, the Tenth Knight had good Pay or Wages allowed him; two Shillings a day, in the Sixth of King John Anno Dom. 1205. 465 years since, was as much then, as thirty Shillings a day now; too great an Allowance for an ordinary Freeholder. In small Expeditions, where a small number of Horse were sufficient, this course was taken to save Charges.

Who in case of Foreign Invasion, were to appear in Arms for the Defence of the Kingdom, under pain of Forfeiture of their Lands to their Lord of whom they held, without hopes of recovery by them or their Heirs.

The Constituent parts of this Great Council mentioned in this Record are observable, which were the Archbishops, Bishops, Earls, Barons, & omnes fideles nostri Angliæ, which were the Tenents in Capite, the omnes alii qui de nobis Tenent in Capite, according to the great Charter granted afterwards in the Seventeenth of his Reign.

See more in
the Answer,
p. 182. 183.

EBOR-

EBORASCIRA.

Carta Domini Rogeri Eboracensis Archiepiscopi
de Militibus suis fefatis.

A

A Mantissimo Domino suo Henrico Dei gratia Regi Anglia & Duci
Normannia, & Aquitannia, & Comiti Andegavia, sum Rogerus
eadem gratia Eboraci Archiepiscopo Apostolica sedis Legatus, sa-
lutem. Precepit Dignitas vestra omnibus fidelibus vestris Clericis &
Laicis qui de vobis tenent in Capite in Eborascira, ut mandent vobis
per literas suas extra sigillum pendentes, quot Milites fefatos quisque

E lib. rubro
in Scaccario.

B

habet de veteri fefamento de tempore Regis Henrici avi vestri, de die
& anno quo ipse fuit vivus & mortuus, & quot habeat de novo fefa-
mento fefatos, post mortem bona memoria avi vestri ejusdem. Et quot feoda
Militum sunt super **Dominium** uniuscujusque, & omnium illorum no-
mina fefatorum, tam de novo fefamento, quam de veteri, sint in illo
breviscripta, quia vultis quod si aliqui ibi sunt qui nondum fecerunt vo-
bis **Ligantiam**, & quorum nomina non sunt scripta in Rotulo vestro,
qui infra Dominicam primam quadragesima **Ligantiam** vobis faciant,

C

quorum ego unus iussioni vestrae per omnia subiectus cum omni diligentia
investigavi in **Tenemento** meo, prout brevisitas temporis passa est, &
presenti scripto vobis Domino meo significo. **Imprimis**, ergo sciatis

D

Domine, quod super **Dominium** Archiepiscopatus Eboraci nullum
feodum est Militum cum tot habemus fefatos Milites, per quos acquie-
tavimus omne servitium quod vobis debemus, sicut & predecessores nostri
fecerunt, & plures etiam habemus, quam vobis debeamus sicut ex pra-
senti subscripto, cognoscere poteritis, Antecessores enim nostri, non
pro necessitate servitii quod debent, set quia cognatis, & servien-
tibus suis providere volebant, plures quam debebant Regi feodave-
runt.

E

F

Nomina

Nomina autem Fefatorum de Tempore Regis Henrici hæc sunt.

Willielmus Comes Albemarle Tenet Feodum trium Militum. A

Henricus de Laci duos Milites.

Rogerus de Molbrai quartam partem Militis.

Herebertus filius Hereberti tres Milites.

Gilebertus filius Nigelli duos Milites. B

Paganus de Landa tres Milites.

Malgerus filius Hugonis unum Militem.

Richardus filius Hugonis unum Militem.

Willielmus de Bella-aqua unum Militem.

Robertus Morin duos Milites. C

Gilebertus filius Herberti duos Milites.

Hugo de Muscham duos Milites.

Walter de Danecurt duos Milites.

Robertus Mansel unum Militem.

Robertus filius Wiard dimidium Militis. D

Petrus de Periton dimidium Militis.

Hugo de Verli quatuor Milites.

Willielmus Chokerel unum Militem.

Thomas de Everinham duos Milites & dimidium. E

Simon Wahart unum Militem.

Radulphus de Novewica dimidium Militis.

Robertus Poher dimidium Militis.

Walter de Denton dimidiam partem Militis.

Robertus filius Hugonis quartam partem Militis. F

Willielmus de Lubbehou dimidium Militis.

Alexander de Nuvebi quatuor partes dimidii Militis.

Herebertus de Merkinton quartam partem Militis.

Petrus de Belingee unum Militem.

Oliverus Angevinus unum Militem.

Willielmus de Panton unum Militem.

Thomas filius Auberti quartam partem Militis.

A

Aliza de Molecroft quartam partem Militis.

Thomas filius Hervei unum Militem.

Benedictus de Sculetot octavam partem Militis.

Bernardus de Cotingeham quartam partem Militis.

Leuredus decimam tertiam partem Militis.

B

Johannes de Melfa octavam partem Militis.

Johannes quartam partem Militis.

Serlo de Pouel quartam partem Militis.

Post mortem vero Regis Henrici Fefati sunt.

C

Petrus Pincerna de feodo dimidii Militis.

Petrus Camerarius de vicesima parte Militis.

Galfridus de Burton de Duodecima parte Militis.

Gervasius de Bretton de tertia parte Militis.

D

*Et cum Domine ex hiis sunt quidam a quibus plus servitii exhigo quam ipsi modo faciant, alii vero detinent; quodam qua ad **Wentam** Archiepiscopi & **Dominium**, & non ad ipsos pertinere dicuntur, Rogerus supplicat ne in scripto isto mihi vel successoribus meis nocere possit, quo minus jus Ecclesia recuperare possimus vel retinere valeat Dominus meus, & prater predictos Milites.*

E

Turstanus de Lethampton feodum dimidii Militis.

Gilebertus de Mineres tertiam partem Militis.

Werri de Marinis tertiam partem Militis.

Willielmus de Scuras dimidiam partem Militis.

Willielmus de Palefrei unum Militem.

F

Willielmus de Bella-aqua & Richardus de Crokton quartam partem Militis.

Y

HERT-

HERTFORDSCIRA.

Carta Roberti de Valoniis, de Baronía Roberti de Valoniis.

ISTI sunt Milites qui fuerunt antiquitus sefati tempore
Henrici Regis Avi Domini nostri Regis Scilicet.

Richardus de Caln, sex Milites & dimidium.

Agnes de Montepinceon, quinque Milites.

Radulphus de Daling, duos Milites.

Philippus de Snaring, tertiam partem unius Militis.

Galfridus de Snaring, dimidium Militem.

Willielmus de Bosco, octavam partem unius Militis.

Adam filius Aluredi, dimidium Militis.

Henricus frater Abbatis, de Sancto Edmundo dimidium Militem.

Matthæus de Francaterra, duos Milites.

Robertus filius Jocelini, unum Militem.

Humfridus de Beringeham, unum Militem.

Robertus de Haia, unum Militem.

Radulphus de Latton, unum Militem, & quartam partem unius Militis.

Ambrosius unum Militem, & octavam partem unius Militis.

Wimerus le Fae, dimidium Militis.

Godefridus de Tiwing, dimidium Militis.

Brien de Tiweng, dimidium Militem.

Willielmus de Mandavill, unum Militem.

Galfridus de Haia, unum Militem.

Willielmus de Boxa, unum Militem.

Robertus filius Radulphi, unum Militem.

Radulphus de Ouvill, dimidium Militis.

Robertus de Infula dimidium Militis.

Monachi

Monachi Theofordiæ, dimidium Militem.

Osbertus de Thaiden, dimidium Militem.

Summa Militum antiquitus Fefatorum tempore Henrici Regis, avi Domini Regis, triginta Milites & tertia pars unius Militis. Et de istis pradiſtis Galfridus de Valoniis, tenet unum Militem & octavam partem Militis.

A

De Dominicis terris de eadem Baronia, isti subscripti feofati sunt, post tempus Henrici Regis avi Domini Regis per Petrum de Valoniis fratrem Roberti Primogenitum, scilicet.

Adam filius Aluredi, unum Militem.

Willielmus de Bosco, unum Militem.

B

Walterus de Nevil, unum Militem.

Galfridus de Valoniis, dimidium Militis.

Gundrea, quæ fuit uxor Petri de Valoniis, unum Militem, in vita sua.

Summa novorum Fefatorum, quatuor Milites & dimidium.

C

Et de istis novis Galfridus de Valoniis tenet duos Milites & dimidium.

Carta Albani de Hairun.

Domino suo excellentissimo Henrico Regi Angliæ Albanus de Hairun, vestra excellentia notifico quod ego in Hertfordscira feodum unius Militis de veteri feamento, de vobis principaliter teneo, & quod de nobo feamento nichil habeo, nec Militem Feofatum aliquem habeo. Valete.

D

He performed the Service himself.

Carta Matthæi de Gerardi-villa.

Matthæus de Gerardi villa, tenet in Capite de Domino Rege Feodum unius Militis de veteri feamento & nullum habet Militem Feamentum, nec habet aliquid de nobo.

E

He performed the Service himself.

Carta Willielmi filii Roberti.

Karissimo Domino suo Henrico Regi Angliæ, Willielmus filius Roberti, Salutem. Sciatis quod de vobis teneo feodum unius Militis pauperrimum, nec alium in eo feodavi, quia vix mihi sufficit, & sic tenuit pater meus. Valete.

F

By these Records the meaning of *Vetus & Novum Feoffamentum* is very apparent, that it was called so in respect of time only, and not in respect of the Original Feudataries, or their Sub-Feudataries, or *Tenens in Capite*, and Tenents by Measn Tenure in Military Service.

By them also may be discovered the import of the Kings Writ issued to his *Tenents in Capite*, and the End or Design of it. If any Man receives not satisfaction from these, and that other Record in these Animadversions, he may see an hundred more in the Red Book in the Exchequer. A

It is agreed on all hands, that the ordinary Curia was held thrice a year, at Christmase, Easter, and Whitsontide, and in the time of Will. 1. the Places were as certain on Christmase at Glocester, on Easter at Winchester, on Whitsunday at Westminster. While they were held at the accustomed places, there was no need of Summons; they that were to come ratione Tenuræ might well come de More; afterward they removed from place to place, the King made the Court wherever he was pleased to hold it, and indeed when ever; but then it could not be that Curia de more, if it were at a different time or place, then there was no need of Summons, if there were summoned at any time more than the ordinary Members of the Curia. If this was on the day of the Curia, there was an union of the Great Council and the Curia, if on a different day, there was a Great Council by it self; yet the Members of the Curia were a part thereof. B C

Notwithstanding, he says it is agreed on all hands, the ordinary Curia was held thrice a year; I never heard of any one of this opinion but himself; he would make the Great Councils held at these times he mentions, and the Great Confluence of Nobility then to the Kings Court, to be the Kings ordinary Court, for the dispatch of ordinary Business, and Controversies between the King and his Subjects, or between Man and Man. D

I will not deny, but often Petitions might be put up, and Complaints made to them about private Matters, such as always have been to the House of Lords, and many more in antient times, than have been for a Century or two of years, and that they did determine, and pass Judgment in those Cases; but that they were therefore the Kings ordinary Court, I think no body will say, but such as never read antient History or Lawyers, or at least, never intended to understand them. E

Lib. 1. c. 4.
The Kings ordinary Court,
what it was.

A very brief Description of the Kings antient ordinary Court, we have in the Black-Book in the Exchequer, written in the time of Henry the Second, by an Officer of that Court, *Habet enim hoc commune*, (meaning the Exchequer,) *cum ipsa Domini Regis Curia, in qua ipse in propria persona sua, Jura decernit, quod nec Recordationi, nec sententia in eo lata licet alicui contradicere.* It hath this common (Writing of the Exchequer) with the Kings Court it self, in which he in his own proper Person Decrees Law; in that it is not lawful for any one to contradict what is Recorded there, or a Sentence passed in it. F

Of

- Of this Court Bracton says, *Habet Rex unam propriam Curiam sicut aulam Regiam & Justiciarios capitales, qui proprias causas Regis terminant, & aliorum omnium per Querelam vel per Privilegium sive Libertatem, ut si sit aliquis, qui implacitari debeat nisi coram ipso Domino Rege*; The King hath one proper Court, even as his Royal Palace, and Capital Justices, who determine his proper Causes, and the Causes of others by Plaint, Priviledge, or Liberty; as
- A when a man ought not to be impleaded but before the King himself. And in another place, *Item Justiciariorum quidam sunt Capitales, Generales, perpetui & Majores, à latere Regis residentes, qui omnium aliorum Corrigere tenentur injurias & errores.* Also of justices, there are some Capital, General, Perpetual, and of greater note, always present with the King, who are bound to correct the Errors and Wrongs of others. *Fleta*, another antient Lawyer writes thus, *Habet etiam Rex Curiam suam, & Justiciarios suos tam Milites quam Clericos locum suum tenentes in Anglia coram quibus & non alibi nisi coram semetipso & Concilio suo, vel auditoribus specialibus falsa judicia & errores Justiciariorum evertuntur & corrigantur, ibidem etiam terminantur Brevia de Apellis & alia Brevia super actionibus criminalibus, & injuriarum contra pacem Regis illatarum impetrata, & omnia in quibus continentur, ubicunque tunc fuerimus in Anglia.* The King hath his Court and Justiciaries, as well Military-men as Clerks his Deputies in England, before whom, and not other where, unless before himself and his Council, or special Commissioners of Oyer, false Judgments, and Errors of Justices, are returned and corrected: and there also are determined Writs of Appeals, and others, upon criminal Actions, and Injuries against the Kings Peace, and all others, in which are contained these words, *ubicunque fuerimus in Anglia*, where ever we shall be in England. By Bracton this is called *Magna Curia*, because in a Writ of Right, if the Lords Court failed of doing Right, the Cause was transferred to the County, that the Sheriff might do Right, and so from the County to this Court, if the King would it should be there determined, upon certain proof of failer of Right in other Courts. From this Court all other great Courts in *Westminster*, but the Exchequer, were derived.
- C
- D
- For concerning this Court, 'tis that (a) Britton in the Person of King Edward the First, (by whose Order he wrote his Book) says, *En primes en droit nous Mesmes & de nostre Court avons issint ordyne, que pur ceo, que nous ne suffisons mye en nostre proppie Personne, à Oyer & Terminer toutes Quereles del people avaunt dit, avons party nostre charge ex plusieurs parties sicome icy est ordine.* First of all, in right of our selves and of our Court, we have so ordained. And for that we are not sufficient in our own proper Person, to hear and determine in all Plaints of our People aforesaid; we have divided our Charge into many parts, as is there ordained. And then proceeds, *Nous volons que nostre Jurisdiction soit sur Toutes jurisdictions en nostre Roialme, &c.* We Will that our own Jurisdiction be Superior to all Jurisdictions of our Realm; so that in all Felonies, Trespasses, Contracts, and in all other Actions Personal or Real; we have Power to give, or cause to be given, such Judgments as they will bear, or do appertain to them, (without other Process) wheresoever we know the direct right, as Judge.
- E
- F

Lib. 3. c. 7. n. 2.

Ibid. c. 1. n. 2.

Lib. 3. c. 2. n. 5.

Lib. 1. c. 7. n. 7.

(a) P. 1.

This

This was the *Curia Regis ordinaria ubi-cunque fuerit in Anglia*, but was no *Bagnum Commune*, or *Generale Concilium Regni*; which nevertheless, without derogation to it, in respect of Time and Place; if without Summons, there was a great and full appearance of the Great Barons and *Tenents in Capite*, at the Kings Court at *Christmasts*, *Easter*, and *Whitsuntide*, might be called *Curia ordinaria*, or *Ex More*. But if it was held at any other time, or at those times by Summons, it was not to be called an ordinary Court or *Colloquium* in respect of Time: And in truth, the Kings ordinary settled and established Court was a different thing from the Confluence of Barons and *Tenents in Capite* at those three great Feasts, which were set and appointed times for Great and General Councils, if there were an appearance sufficient, and any publick Business to dispatch. But by this Charter it was provided, that there should always go forth Summons, and the cause of the Summons to be expressed in it, which needed not have been provided for, if there had been but one Cause, for which they were to be summoned, as our Author avers.

A

B

To make good his Assertion, that the *Tenents in Capite* only made a *Curia de More*, or the Kings ordinary Court; and that there were more than those in the Great Councils, he produceth many Instances in several Kings Reigns.

C

P. 39.

About the fifth year of William the First, as Mr. Selden supposes, was held the Council at *Pinenden-Heath* in Kent, to determine the difference between *Odo Bishop of Praepur*, Earl of Kent, and *Archbishop Lanfranc*; if this were a *Curia de More*, then 'tis evident, that more than *Tenents in Chief*, nay, all *Proprietors Assembled* then of course, even at the *Curia*; for the *Probi Homines* of several Counties were there; but it appears, it was upon the Kings Summons to all the *Free-holders of Kent*, and of some adjacent Counties.

D

Eadmer, Hi-
stor. fol. 9.
P. 40.

Præcepit Rex Quatinus adunatis prioribus & probis viris non solum de Comitatu Cantie, sed & de aliis Comitatibus Anglia querela Lanfranci in medium ducerentur, Examinaerentur, determinarentur.

Ibidem.
Our Author
Transcribes
no further
than *Fecit*, the
whole as I
have transcri-
bed it, makes
it clear he un-
derstood not
Eadmer, as it
will presently
appear.
P. 40.

Dispositio itaque apud Pinenden principum Conventu Goffridus Episcopus Constantiensis, viz. Eâ Tempestate prædixes in Anglia vice Regis Lanfranco, Justitiam de suis Querelis strenuissime jussus facere, fecit, Lanfrancus enim valida ratione, subnixus, ex communi omnium astipulatione, & judicio, ibi cuncta Recuperavit, qua ostensa sunt antiquitus ad jura Ecclesia Christi Cantuariensis pertinuisse, tam in Terris quam in diversis Consuetudinibus.

E

Here all the *Probi homines*, are by variation of the phrase, *Conventus Principum*; a Bishop was President, and pronounced the Judgment, but it was, as 'tis said afterwards, *Ex Communi omnium astipulatione*.

F

P. 41.

Here matter of ordinary Justice was determined before, more than the ordinary *Curia*.

This

This looks very like a General Council of the whole Nation; to be sure 'twas more than a Curia of the Kings Tenents and Officers, and is more than a County Court.

Tet in the nature of a County Court, it being several Counties united, and so was adunatio Conciliortum, though not of the Council of the whole Nation. An antient Ms. makes this chiefly a Court of the County of Kent.

Ibidem.

Præcepit Rex Comitatum totum absque morâ considerare & homines Comitatus omnes Francigenas & præcipue Anglos in antiquis legibus & consuetudinibus peritos in unum convenire.

But then it adds, & alii aliorum Comitatum Homines, and confirms what Eadmerus says;

The Kings Commissioners were to pronounce the Judgment, in the Kings name or stead; So the Bishop of Constance did right to Lanfranc. The Inquest upon their Oaths found the Matter of Fact; the Judges stated it to the People, and delivered their Judgment, to which the Primores and Probi Homines assented: For 'twas Ex communi omnium assipulatione: This agrees with what Bracton says of the Laws passed in the Great Council of the Nation. De Consilio, & consensu Magnatum, & Reipublicæ sponcione.

P. 4145.

A true Account of this Meeting at Pinnedene, will demolish our Author's groundless Notion of it, and his perverse Interpretation of Eadmer. Most, if not all the Bishopricks and Abbies in England, were disseized of many of their Lands and Customs by the Normans, upon the Conqueror's coming in; upon Archbishop Lanfranc's Application to him, with whom he advised in many of his Affairs, and the Mediation of other Great Men, he granted a General Writ for the Restitution of whatsoever had been taken from the Bishopricks and Abbies all the Kingdom over, The Form was as followeth,

W. Dei Gratia Rex Anglorum, L. Archiepiscopo Cantuar. & G. Episcopo Constantiarum, & R. Comiti de Ou, & R. Filio Comitiss Gil & H. de Monte-forte, suisque Aliis Proceribus Regni Angl. Salutem. Summonete Vicecomites meos ex præcepto meo, & ex parte mea eis dicite, ut reddant Episcopatibus meis, & Abbatibus totum Dominium omnesque dominicas Terras quas de Dominio Episcopatum meorum, & Abbatiarum Episcopi mei & Abbates eis vel lenitate, vel timore vel Cupiditate dederunt, vel habere consenserunt, vel ipsi violentia sua inde abstraxerunt, & quod hactenus injuste possederunt de Dominio Ecclesiarum mearum, & nisi reddiderint, sicut eos ex parte mea summonebitis, vos ipsos velint nolint constringite reddere. Quod si quilibet alius, vel aliquis vestrum, quibus hanc Justitiam imposui, ejusdem Querelæ fuerit, reddat similiter quod de Dominio Episcopatum vel Abbatiarum mearum habuit, ne propter illud quod inde aliquis vestrum habebit, minus exerceat super meos Vicecomites, vel alios quicunque Teneant Dominium Ecclesiarum mearum, quod præcipio.

Some Gavelk. Append. f. 191. The General Charter of William the Conqueror for Restitution of the Lands taken from Bishopricks, &c.

William,

These were all
Normans, and
the Temporal
Men, great Ba-
rons under
William. Vid.
Dugd. Baron.

William, by the Grace of God, King of the English, to Lanfranc Archbishop of Canterbury, and Gosfrid or Galfrid Bishop of Constance in Normandy, and Robert Earl of Ou, and Richard the Son of Earl Gilbert, and Hugh Montfort, Greeting; Summon ye my Sheriffs by my Precept, and on my behalf Command them, that they restore to my Bishopricks and Abbies, their whole Demain (or perhaps rather all their Lordships) and all their Demain Lands, which my Bishops and Abbats, by Fear or Easiness granted away, and consented they should enjoy them; or that they by violence took away, and what they as yet unjustly possess of the Demain or Possessions of my Churches; and unless they shall restore them, according as you shall on my behalf give them notice, you may then constrain them to restore them, whether they will or not; and if any other, or any of you, to whom I have committed the doing of Justice in this Matter, shall be obnoxious to the same Accusation or Complaint; let him restore likewise the Possessions of my Bishopricks and Abbies, left for that reason any of you prove remiss towards such as hold any Possessions or Lands of my Churches.

This General Writ was the Ground, upon which the Bishops and Abbats proceeded for recovering their Lands; and besides those named in it, all his Great Men of the Kingdom of England were made Commissioners by it; who (as many of them as upon this occasion at any time thought fit to meet) directed their Precept to the Sheriff, and he to the Suitors to the County Court, which were all * Tenents in Military Service (except Barons) and were bound to appear there, under great Penalties, both in the Saxon and Norman times.

*See the Answer, fol. 18. c. & Gloss. Title *Liberi homines*, p. 27.

Grand Custom. f. 93. a. c. 69. de Jureurs, & f. 113. b. c. 93. de brief de Nouvelle Disfaifine Glanv. l. 2. c. 17

In Tryals of *Novel Disseisin*, and for the Possession of Lands, Customs, Services, &c. The Juries at the time of the Conquest, and in several of the Kings Reigns next succeeding, were impannelled out of the same Town and Neighborhood, of such as did know the Land, and things in question, and who had been possessed of it, and for what time. And to this purpose in an Assize, if none of the Jurors knew the right it self, or truth of the Matter, and did testifie so much to the Court upon Oath, Recourse was then had to others, until such were found, who did know the Truth; but if some did know the Truth, and others not, those that knew it not were put by, and others called into the Court, until twelve at the least should be found to agree therein. And for this purpose it was, that all Suitors to the Hundred and County-Court, were bound to appear there, under great Penalties, that there might be a Jury of such as knew whose the Land was.

In the Longobard or Lumbard Laws, and the *Capitularies* of Charles and Ludovicus, and in other old German Laws, (and from Germany, both Normans and Saxons received theirs) we have almost the same Account of Jurors, and they are there called *Testes*; and often in *Domesday-Book* it is thus found, *Testatur Hundreda, Teste Hundreda*; the Hundred witnesseth, that such Land is such a mans, or by witness of the Hundred, such Land is such a mans; See the Claims in *Yorksire, Lincolnsire, and Suffolke*, at the end of that Book.

And

A And in as many Counties and Shires, as the Church of *Canterbury* had Lands, of which it had been Disseised, the Suitors to the County-Court, where such Lands lay, were by their several Sheriffs, summoned to appear at *Pinenden-Heath* in *Kent* (now *Pikenden-Heath* near *Aylesford*.) To give Testimony whether the Lands which *Lanfranc* claimed in their Counties, belonged to the Archbishoprick, or to *Odo* Earl of *Kent*; and it was a plain County-Court, held before Extraordinary Commissioners, Constituted by King *William*.

The Mannors and Lands in Controversie, being five and twenty Mannors, &c. lay in *Kent*, *Surrey*, *London*, *Middlesex*, *Buckinghamshire*, *Oxfordshire*, *Essex*, and *Suffolk*, though above two parts in three of them, lay in *Kent* only.

Text Ross cited by Seld. not in Eadmer. fol. 198.

B And the *Primores*, and *Probi viri*, not only of the County of *Kent*, but of other Counties of *England* were these Jurors, which consisted of the Great Military Tenents that were not Barons, and the less, which were the *Probi viri*, for it can be no ways probable, that the ordinary Free-men, which made the greatest number, and were all bound to their good behaviour, could be the *Probi*, and *Legales homines*, which served upon Juries.

See *Liberi Homines* in the Glossary.

C To make what is here said more clear, we will take two of his own Instances concerning the Abby of *Ely*, the Abbat whereof was at this time engaged upon the Foundation of this general *Warrant* from the Conqueror, to recover the Lands that Abbey had been Disseised of.

D *Willielmus Anglorum Rex omnibus Fidelibus suis, & Vicecomitibus in quorum Vicecomitatibus Abbatia de Hely terras habet, salutem. Praecipio Abbatia de Hely habeat omnes consuetudines suas, &c. has inquam habeat, sicut habuit die qua Rex Edwardus, fuit vivus & Mortuus, & sicut mea jussione dirationatae sunt apud Keneteford, per plures scyras ante meos Barones, viz.*

P. 41.42.

E *Galfridum Constantensem Episcopum & Balwinum Abbatem, & Petrum de Alonitis, & Picotum Vicecomitem, & Tehehen de Helion, & Hugonem de Holden, & Gocelinum de Norwicum & plures alios, Teste Rogero Bigot.*

F *William, King of England, To all his Feudataries and Sheriffs, in whose Sherifdoms the Abby of Ely hath Lands, Greeting. I Command that the Abbey of Ely have all its Customs, &c. Those I say let it have, as it had them the day in which King Edward was alive and dead; and as by my Command they were proved to belong to it, at Kentford by many Shires, (That is by the Military Tenents, or Suitors to the County-Court of many Shires) Before my Barons, That is to say,*

Galfrid Bishop of Constance, Baldwin the Abbat, Peter de Alonitis, Picot the Sheriff, Cebel de Helion, Hugh de Holden, Gocelin de Norwico, and many others, witness Roger Bigot.

'Tis most probable this Writ of Possession was directed to his Feudataries, or Norman Subjects, because they had only possessed themselves of the Bishoprick and Abby-Lands. These were all Normans and Tenants in Capite.

The Conquerors Writ of Right and Possession joyned in one.

His Second Instance which I make use of.

Willielmus Rex Anglorum Lanfranco Archiepiscopo, & Rogero Comiti Moritonio & Galfrido Constantiensi Episcopo, salutem. Mando vobis, & precipio ut iterum faciatis omnes scyras quæ inter-fuerunt placito habito de terris Ecclesie de Hely antequam mea Conjux in Normaniam novissime veniret. Cum quibus etiam sint de Baronibus meis qui competenter adesse poterint, & prædicto placito interfuerint, & qui Terras ejusdem Ecclesie tenent. Quibus in unum Congregatis, Eligantur plures de illis Anglis qui sciunt quomodo Terra jacebant præfata Ecclesie die qua Rex Edwardus obiit, & quod inde dixerint ibidem jurando testentur. Quo facto restituantur Ecclesie Terræ quæ in Dominico suo erant, on the day of the death of King Edward, &c.

William King of England to Archbishop Lanfranc, Roger Earl of Moreton, and Geoffrey Bishop of Constance, Greeting, I Command you, that again you cause to be Assembled, the Shires **which were present**, at the Plea or Mote held, concerning the Lands of the Church of Ely, before my Wife last came into Normandy.

With whom also may be present as many of my **Barons**, as well there can, who were present at the said Plea, and do hold the Lands of the said Church, who being Assembled, **may** * choose many of such English, as know how the Lands belonged to the said Church on the day of King Edward's death, and what they shall then say, let them testify upon Oath, which being done, let the Lands be restored to the Church, of which it was possessed of, the day of King Edward's death, &c.

This being premised concerning Tryals for Lands upon Writs of *Novel Disseisin* (where Tenents or Possessors of Lands had been lately disseised) in general, and concerning the same Tryals or Writs brought, and Recoveries made of their Lands, by the Church of Ely in particular; we will see whether our Author understood the words of Eadmer or not: He says,

*Præcepit Rex, quatenus adunatis primoribus & probis viris non solum de Comitatu Cantix, sed & de aliis Comitatibus Anglia, Querela Lanfranci Ducerentur, Examinarentur, Determinarentur, disposito itaque apud Pinnedene * Principum conventu, Godfridus Episcopus Constantiensis, Vice Regis, Lanfranco Justitiam de suis Querelis facere jussus, fecit. Lanfrancus enim validâ ratione subnixus, ex communi omnium astipulatione & Judicio, ibi cuncta recuperavit quæ ostensa sunt (a) antiquitus ad jura Ecclesie Christi Cantuariensis pertinuisse tam in terrâ quam in diversis consuetudinibus.*

The King Commanded, that the Chief, and Honest Men, not only of *Kent*, but of (b) other Counties of England, being called

* Those which Eadmer and Text, Rossen do call *Principes*, are in the Conquerors General Writs, and in Ely Case, called *Præceres & Barones*. (a) That is, *Die qua obiit Rex Edwardus*, as in Ely Case, and the Abby of Ramsey's Case, Spelm Glossar. verbo *Hundred*, and many others. (b) Where the Church of Canterbury had Lands, as in the Case of the Church of Ely.

together,

* This is a Confirmation of what is found in Glanvil, and the Grand-Cust That Juries were impelled of such that know the right of the thing in question, which in this case could be none but English.

Fol. 9. n. 43.

*

a.

together, the Plaints of *Lanfranc* should be Propounded, Examined, and Determined. Therefore (*Dispositio apud Pinnedene Principum Conventu*) The (c) Barons, Kings Commissioners or Court being set at *Pinnedene*, *Geoffrey* Bishop of *Constance* in the Kings stead, did *Lanfranc* Justice concerning his Demands, as he was Commanded. For *Lanfranc* supported by strong Reason, by the common Suffrage and Judgment of all of them (*id est*, of the *Princes* or *Barons*) Recorded all things which were made * appear to have been the right of *Christ-Church* in *Canterbury*, as well Lands as Customs.

c.

* By the Testimony of the *Primores* & *Probi Homines*, or per plures *Scyts*, ante *mem* *Barones*. A. above in the Case of the Abby of *Ely*.

Let any sober knowing Man consider this Relation of *Eadmer*, and think with himself whether he can from thence collect, and say with our Author, that *Probi Homines* are by variation of the Phrase, *Conventus Principum*: That this Meeting at *Pinnedene* (or County-Court, upon an extraordinary Precept, directed to the Suitors of many Counties, to appear before special Commissioners) looks very like a General Council of the whole Nation; or that it was more than a Court of the Kings Tenents and Officers, and more than a County-Court. Or how it was *adunatio conciliorum*, an uniting of Councils, when as this whole Assembly can no ways claim the Title of a Council. Or Lastly, That the Judgment which was pronounced in the Kings name, by *Geoffrey* Bishop of *Constance*, with the assent of all the other *Princes*, *Barons*, or Kings Commissioners, was by the common astipulation of all the *Primores* and *Probi Homines*, and that without their consent it had not been Authentick, as he insinuates, but without all colour of Reason.

For the contrary is evident from the words of *Eadmer* as above, and is made yet more apparent from the Account we have of this *Placitum* or *Mote* in *Textus Roffensis*, cited by *Selden*, *Hujus Placiti multis Testibus, multisque rationibus determinatum finem postquam Rex audiverit, laudavit, laudans cum Consensu omnium principum suorum Confirmavit, &c.* After the King heard this Plea was determined (a) by many Witnesses, and many Reasons, he approved what was done, and confirmed it by the consent of all his *Princes* or *Barons*, that is, by a General Council or Parliament of that time.

Not. in *Eadm.* fol. 199. n. 40.

The King and Great Council confirm the Judgment given at *Pinnedene*. (a) Which were the Jurors or *Primores*, or *Probi Homines*.

But if no Judicious Person can say he hath rightly deduced these his Assertions from the Story; it will be hard to judge whether his Ignorance or Confidence is the greater: However, he is somewhat more modest than Mr. *Petit*, who says this Judgment was given, and tells us, *Eadmer* reports it to have been given, *Astipulatione totius Regni*, in his Right of the Commons Asserted, p. 46.

Eadmer hath nothing more of this matter but in this place, and the next Paragraph, where are no such words.

P. 46. (b) It was no Council, see above. Rot. Pat. 42. H. 3. M. 4.

The Parties assembled at the (b) Council of *Pinnedene*, were the *Primores* and *Probi Viri*, of the Counties concerned, which answer to the *Procures* & *Fideles Regni*, in the Union of all the Counties in Parliament, as in the 42 Hen. 3. which in another Record are branched out into, *Pauciores*, & *Probes Homines*, & *du Commun de nostre Reaume*. That is, as the Statute of the Staple has it, the

(c) The Barons, Princes, or Kings Commissioners, were *Geoffrey* Bishop of *Constance*, *Rich. de Tunbridge*, *Hugo de Montforti*, *W. de Arces*, *Haymo Vicecomes*, and many others of the Kings Barons. *Seld.* Not. in *Eadm.* fol. 119. n. 10. from *Text. Roff.*

Prelates, Dukes, Earls, Barons, the great Men of the Counties, Grands des County's, as the French, and the Commons of the Cities and Burghs.

How far the *Primores* and *Probi Homines* assembled at *Pinnedene*, answered to the *Proceres* & *Fideles Regni*, see before what hath been said of that Meeting.

See this Record at the end of the Animadversions. (a) See the Answer, p. 199. Pat. 42. H. 3. M. 4. Have granted that 24 of our Men, &c.

The French Record he cites to prove it, 42 Hen. 3. was a Commission, by which in pursuance of the Oxford (c) Provisions, the King was forced to appoint Twenty four Persons which were to order the State of the Realm, though the Record runs thus, *Henr. par la Grâce Dieu Rei Dengl. &c. à touz ceus, &c. sachiez que pur le profit de nostr. Reaume, & à Request de nos Hauz Hommes, & Prodes Hommes, & du Comun de nostr. Reaume, Orcepames que vinte quatre de nos Homes, &c.*

The Twenty Four by the same Record had Power to choose Four who had Authority to choose the Kings Council: *Les queus vinte quatre desus nomez Esturens quatre, as queus quatre il Donerent leur poer de Eslire nostr. Conseil des Prodes Hommes de nostre terre, &c.* Which Twenty Four under-named shall choose Four, to whom they shall give their Power to choose our Council of the Wise Men of our Land, &c.

Hauz in this Record is the same that *Haults*, Men of High Degree, *Proceres*, *Magnates*, &c. and were the great Barons. And *Prodes Hommes* for *Prudes Hommes*, (for so I have seen it written, though I cannot call to mind the Record) *Viri Prudentes*, or *Sapientes*, Wise, Discreet Men, not *Probi Homines*, as our Author would have it, for certainly the ordinary sort of Freeholders, which he means by the *Probi Homines*, or the Jurors which are called *Probi* and *Legales Homines* in our ancient Lawyers, Records and Histories, were never Members of the Kings Council, which according to this Record was to be, *des Prodes Hommes de nostr. Terre*, of the Wise Men of the Kingdom, and these *Hauz Hommes* and *Prodes Hommes*, were no other than *Viri Nobiles ac discreti*, as *Paris* calls them, such as were sent to the Council of *Lyons* in the Name of the whole Univerfity of the Kingdom, about the Papal Exactions, &c. who were *Earl Roger Bigod*, *John Fitz-Geoffrey*, *William de Cantelup*, *Phillip Bassiet*, *Ralph Fitz-Nicholas*, all great Barons, and Mr. *William Poweric* then Secretary.

See Answer, p. 149.

See *Communitas Regni* in the Glossary.

Et du Comun de nostr. Reaume, what the *Communitas Regni*, the Community of the Kingdom was in these times; see Answer from F. 75. D. to F. 85. and from F. 103. A. to F. 111. C.

But because this Record is cited in other late Writers, as in Mr. *Petit's* Appendix to the Antient Rights of the Commons, &c. p. 169. in the Margin, and in the Reflections upon *Antidotum Britannicum*, printed with the Lord *Hollis* his Remains, p. 226. To prove that the Commons, as at this day, were a constituent part of the Parliament: I will grant what they would have, that is, that *Prodes Hommes* are to be Translated *Probi Homines*, and yet shall shew, that these *Probi Homines* in this Record were Barons, and that the

Appellation

Appellation of Probi Homines was sometimes given to Bishops, Earls, and Barons; and this will appear by comparing this Record with others about the same Affair.

A The King at this time imprudently had accepted of the Popes Gift, of the Kingdom of *Sicily* and *Apulia*, to his Second Son *Edmund*, and all the Money he could any ways procure, he sent to the Pope, to beat *Conrade* out of that Kingdom, and also became bound to the Pope in vast Sums of Money. The Welsh likewise at this time invaded *England*, committing great Rapine and Slaughter, and by these means the King was reduced to great Streights; out of which, that he might extricate himself, he called a Parliament or great Council at *London* in the *Quindene* of *Easter*. But the Barons taking advantage of his necessities, (with fair Promises, which they never performed) brought him into greater Difficulties, as the following Record will shew us.

*Paris, fol. 963.
n. 40. Mat
Westm. f. 358.
n. 20.*

B *Rex omnibus, &c. cum pro negotiis nostris arduis nos & Regnum nostrum contingentibus, Proceres & Fideles Regni nostri ad nos London, in Quindena Pascha proxime praterita faceremus convocari, & cum de negotiis supradictis, & maxime de prosecutione negotii Sicilie, diligenter cum eisdem tractaremus, ac ipsi nobis Responderunt, quod si statum Regni nostri per Consilium Fidelium nostrorum, ratificandum Duxerimus, & Dominus Papa conditiones circa factum Sicilie appositae melioravit, per quod negotium illud prosequi possemus cum effectu, ipsi diligentiam fideliter apponent erga Communitatem Regni nostri, quod nobis Commune Auxilium ad hoc praestetur, Nos eis concessimus, quod infra festum Natalis Domini proximo futurum, per Consilium Proborum & Fidelium hominum nostrorum Regni Angliae, una cum Consilio Legati Domini Pape, si in Angliam medio tempore venerit, Statum Regni nostri ordinabimus, & Ordinationem illam, firmiter observabimus, & ad hoc fideliter observandum, supponimus nos Cohercioni Domini Pape, ut nos ad hoc per censuram Ecclesiasticam prout expedire viderit valeat actare, &c. Dat. apud Westminster 2. die Maii.*

*Rot. Pat. 42
Hen. 3. m. 10.*

E By this shew only of giving the King an Aid, the Barons obtained from him this Grant, but by a serious, and as he thought, a real Promise, to assist him with Money, they drew from him a more particular Grant of his Crown and Government, leaving out the Popes Legate, lest he should not come in due time to serve their purpose, or if he should come, that they might not have any Contest with, or be over-ruled by him.

F *Rex omnibus, &c. Noveritis nos concessisse, Proceribus & Magnatibus Regni nostri Juramento in animam meam per Robertum Walterand praestito quod per 12 Fideles de Consilio nostro jam Electos, & per alios 12 Fideles nostros Electos ex parte Procerum ipsorum, qui apud Wintoniam a festo Pentecostes proxime futuro, in unum mensem convenient, ordinetur, ratificetur, & reformetur status Regni nostri, secundum quod melius viderint expedire, ad Honorem Dei, & ad fidem nostram, ac Regni nostri utilitatem, & si forte aliqui Electorum ex parte nostra absentes fuerint, liceat illis qui praesentes fuerint, alios substituere loco absentium, & similiter fiat ex parte praedictorum Procerum & Fidelium nostrorum, & quicquid per viginti quatuor utrinque Electos*

*Pat. 42 Hen. 3.
M. 10. Pro Re-
ge & Baro-
nagio.*

Electos & super hoc juratos vel Majorem partem eorum circa hoc ordinatum fuerit inviolabiter observabimus. Volentes & firmiter ex nunc precipientes quod ab omnibus observetur eorum ordinatio, & securitatem omnimodam quam ipsi vel major pars eorum ad hujus rei observationem, providerint, vel providerit eis sine qualibet contradictione plene faciemus & fieri procurabimus, &c. Promiserunt etiam nobis Comites, & Barones, Memorati, quod expletis negotiis superius tactis, bona fide laborabunt ad hoc, quod auxilium nobis commune præstetur à Communitate Regni nostri. In cujus, &c. Dat. ut supra 2. die Maii.

This was the Famous Parliament or Colloquium, that met at Oxford in the 42th of Henry the Third, on St. Barnaby's day, Anno Domini 1258. in which year Easter-day was March the 24th, and Whit-Sunday May the 12th, so that Barnaby-day was just a Month after Whit-Sun-Tuesday, and agrees for time with this Record.

Both these Records are of the same Date; In the first it's said, the King called the *Proceres* and *Fideles Regni sui* to London, fifteen days after Easter, and granted to them that the State of his Kingdom should be ordered *Per Consilium Proborum & Fidelium hominum suorum Regni Anglia*, together with the advice of the Pope's Legate. In the second 'tis said he granted to the *Proceres* and *Magnates Regni sui*. That Twelve * *Fideles* then chosen out of his Council, and Twelve other *Fideles* to be chosen on behalf of, or by the *Proceres*, or Great Men which were to meet at Oxford a month after Whit-Sunday, should reform and rectifie the State of the Kingdom according as they should think fit, and what the *Proceres* and *Magnates* were, that should choose the Twelve *Fideles*, we are told in the close of the Record, where they are called Earls and Barons, *Promiserunt etiam nobis Comites & Barones Memorati*, &c. which words must refer to the *Proceres* and *Magnates* mentioned in the beginning of the Record, there being no other words they can be referred to, for the words *Comites* and *Barones* are only mentioned in this one place of the Record, and no where else.

From hence we may note, that the *Proceres* in one Record, and *Proceres* and *Magnates* in t'other, were the same Persons, and that they were Earls and Barons. That the *Probi* and *Fideles* in one Record, which at the request or instance of those Earls and Barons, were to order the Kingdom, and the Twelve *Fideles* that were chosen by the Earls and Barons in t'other Record were Persons of the same Order, Rank, and Degree: That the Twelve chosen by the King, were of his Council, and in all probability the Twelve chosen by the Earls and Barons, were some of themselves, or other very Eminent Persons of their own Inclinations. And lastly, we may note from these Records, that none of the Four and twenty were ordinary Men, common or ordinary Freeholders or Plebeians, as these Writers would have it. *Henry de Wengham* Dean of St. Martins Le Grand, London, and then Keeper of the Great Seal was one of them, and *John Mansel* Provost of Beverlay, and Treasurer of the Church of York, who had lately been Keeper of the same Seal, was another, which perhaps might not be Barons, yet were Eminent Clerks, or Lawyers in those times, and men of Great Abilities; and for these reasons reckoned amongst the *Magnates*; and to this very

* Confiding
men.

Rot. Pat. 42.
Hen. 3. m. 6.

very purpose and meaning, *Mat. Westminster* delivers the sum of these two Records.

A Anno igitur Regni Henrici Tertii 42. Convenientibus Oxonia **Bi-**
litibus Baronibus & Prelatis, Edictis publice evocatis, cum arma-
torum potenti & innumera Comitiva, presentibus Domino Rege, & Do-
mino Edwardo, primogenito ejusdem, communi deliberatione, imo De-
liratione, taliter ordinarunt: Ut quia idem Regnum Reformatione mul-
tiplici sui status egebat, **Dictus Rex** pro se **Duodecim** Personas de
Regno, & Tota Terra **Communitas** alias **Duodecim** providerent,
qui Regia potestate suffulti totius Regni curam susciperent, &c. And a
little after he hath this Passage, after a Narrative of some of their
Actions. *Videntes ergo* **Proceres** antedicti viginti quatuor, ad Regis
& Regni regimen sic **Eleati**, tot multiplicatis capitibus, Monarchia sub-
lata, **Commune**. **Dissidium** jugiter invalescere, & confusionis illius, quæ
B Diebus istis evenit, periculum imminere, omnes præter **Quinque** sub-
scriptos, scilicet **Episcopum Wigornientem**, & duos **Comites** præ-
dictos, (the Earls of Gloucester and Leicester) **Hugonem Dispensa-**
tozem, and **Petrum de Monteforti**, ad Dissolvendum Ordinationes &
Provisiones hujusmodi provisas, & ad reducendum Regem in statum de-
bitum consenserunt.

Mat. West.
fol. 391. lin. 2.

Ibid. lin. 40.

C And now we come to the French Record, which these Writers cite so often by Parcels, which in Time and Date follows these be-fore noted.

Henr. par la Grace **Deu Roi D'engleterre**, &c. a touz cens, &c. Sa-
chiez qe pur le profit de nostre Reaume, e a la **Requeste** de nos **Hauz**
Homes e **Prodes Homes** e du **Comun** de nostre Reaume Otreymes qe
vint quatre de nos homes eurent poer qe qe tout ce qil ordeneirent del
Estat de nostre Reaume fust ferme e estable, e ce fermes juzzer en nostre
Alme e Donames de ce nos Lettres Overtes, & de ce meesmes jurra Ed-
D ward nostre sieuz einzne e de ce dona ces Lettres Overtes, Les queus
vint quatre desus nomez eslurent quatre as queus quatre il Donerent
lour poer de eslire nostre Conseil des **Prodes Homes** de nostre Terre, Le
quel Conseil nos avuns promis & promettuns craire al adreusement
e al amendement de toutes les Besoignes qe aperteignent a nos, e a nostre
Reaume, & nos voluns qe lavant Dit Conceil ou la greinure partie
puissent eslire **Prode Home** ou **Prodes Homes** qe saient en * lui
de celi ou de ceus qui defauderunt, & nos averun ferme e estable
E quanqe lavant dit Conseil ou la greinure partie fera. E Coman-
dum fermement, qe touz nos feaus e nos homes ausi laient e saient tenuz
fermement garder touz les establissemenz les queus il ferunt al honur de
Deu e nostre foi e au profit de nostre Reaume. Et en Tesmoignance de
ceste chose nos avuns fet mettre nostre seel a set presente Lettre. Ceste
chose feu fete a **Lundr. landemaigne** prochain apres la **Gaulehaut** lan de
nostre coronnement quarante secund. ceste lettre est Double e l'ivere al
F Cunte le **Marescal** per le Roi e sun Conseil.

Here we see
the *Hauz Ho-*
mes, and *Pro-*
des Homes,
were none of
the Commu-
nity of the
Kingdom, and
therefore no
ordinary Te-
nents in Ca-
pite.

* Lieu.

Though I cannot tell what is here meant by *Gaule Haut*, and so cannot certainly make out the Date of this Record, yet it was Dated some time after the other, for here it is said, That the 24 were to choose Four, which no doubt were to be **Prodes Homes**, well-affected, or well-inclined, and those Four were to choose the Kings Council, **des prodes Homes**, of the well-affected or well-inclined; and

and the Four at this time chosen, were **John Mansel** aforesaid, **Roger le Bigod** Earl of Norfolk, and Marshal of England, **Hugh le Bigod** Justiciary of England, chosen by the Barons, and Brother to Roger Earl-Marshal, and **John de Plessetis** Earl of Warwick, as appears by Rot. Pat. 42 Hen. 3. M. 6. Teste Rege apud Oxoniam. 22 Junii. So that this Record was dated after Barnaby-day, and probably about or after the 22th of June.

Here 'tis said, that at the Request of the *Hauz Homes e Prodes Homes e Comun de nostre Reaume*, and the Community of the Realm, the King granted that 24 of his men, should have Power, that whatever they ordered concerning the State of the Realm, should be firm and stable, as it had been firmly sworn on his behalf. Seeing therefore that these *Hauz Homes* and *Prodes Homes*, who with the Community of the Realm, requested the King, &c. were none of that Community, as is clear from the very words of this Record, they must be, and were the *Proceres* and *Magnates*, the Earls and Barons mentioned in the last Record, to whom the King had granted the same thing. *Rex omnibus, &c. Noveritis nos concessisse Proceribus & Magnatibus Regni nostri, Juramento in animam meam per Robertum Walerand praestito, quod per 12 Fideles de Consilio nostro jam electos, & per alios 12 Fideles nostros electos ex parte Procerum, &c.* as before dated May the second.

In the Charter Roll of the 49th of Henry the Third, Membrane the Fourth and Fifth, there is a French Record, and a Latin Record about the same matter, the Peace (as it is there called) concluded after the Battel of Lewes, in which *Hauz Homes*, and *Prodes Homes* are expressed by Prelates, Earls, and Barons, and such of those as were of the Faction against the King, have the Epithet of *Prodes* adjoyned to them.

And further to prove that the Bishops, Earls, and Barons, and other great men, were sometimes called *Probi Homines* in the plain and true meaning of the words, and that they were not always appropriated to ordinary men, (and perhaps but seldom attributed to them in antient times) take this Record.

Ryley's Placita
Parliament.
f. 246. as before

Ad Petitionem, Archiepiscoporum, Episcoporum, Pralatorum, Comitum, Baronum, & aliorum proborum hominum, (which words imply the Archbishops, Bishops, Prelates, Earls, and Barons to be such) *de terra petentium, quod Rex concedere velit, quod possint Talliare antiqua Dominica, unde sunt in Tenancia, desicut Rex Dominica sua Talliavit. Ita Responsum est. Fiat ut petitur.* These *alii Probi Homines* that petitioned the King for leave to Tax their Tenents, of the antient Demeasns they held of him, were no Plebeians or ordinary People, but such as held Mannors, and considerable Lordships of him, to them and their Heirs, under small Rents and Services, for all Services, and such commonly, as they or their Ancestors had merited well of our antient Kings, for the Service they had done, and received those Lands on that account.

P. 47.

That Freeholders had the Appellation of Milites, is evident by many Records.

I

I will not deny that *Milites* were Freeholders, but they were *Libere Tenentes in servitio Militari*, Freeholders in Military or Knights Service, and not the ordinary Common Freeholders, as at this day which he intends. See *Gloss.* in the words *Milites*, and *Liberi Homines*, an Answer, p. 150.

Milites and common Freeholders not the same.

A In the Fourth of this King (meaning William the First) the Controversie between the Archbishop of York and the Bishop of Worcester was determined at *Pedreba*, before the King, Archbishop Lanfranc, the Bishops, Abbats, Earls, & *Primitibus totius Angliæ*; this Mr. Selden rightly calls a Parliament; which is easily to be gathered from the large and comprehensive signification of *Primates*. Hoveden's words are, *Wulfstan Querela, in Concilio in loco qui vocatur Pedreda Celebrato, coram Rege ac Dorobernia Archiepisco Lanfranco & Episcopis, Abbatibus, Comitibus & Primitibus totius Angliæ, est terminata.*

P. 54.

R. Hoveden, fol. 453.

Fol. 260. a. n. Lon. Edit.

B It's enough this Gentleman thinks, to say only that *Primates* was a word of a large and comprehensive signification to prove that there were more than *Tenents in Capite* in this Great Council, which he ownsto be a Parliament in his own sense, and says, *Selden* rightly calls it so. In which place of *Selden* he might easily have observed his opinion of the signification of *Primates*; under which he tells us, the Temporal Barons being not Earls were comprehended, although sometimes the same word, as *Proceres* or *Magnates* comprehend both them and the rest also: that is, both the Spiritual and Temporal Barons.

Tit. Hon. f. 580

C Many such Instances as this he brings of great Councils in the Reigns of William the First, and Second, Henry the First, King Stephen, Henry the Second, Richard the First, to prove there were more than *Tenents in Capite*, nay ordinary Freeholders in them: But in the words he himself cites them in, the *Primates*, *Primores*, *Proceres*, *Magnates*, and *Nobiles* are always the constituent parts of them; or the *Clerus* and *Populus*; which when he evinceth them to be, and those words to signifie the Common Freeholders, as at this day, or that ever there was an *Adunation* (as he calls it) of all the Freeholders in every County in a General Council, I will be of his opinion.

From p. 54. to p. 219.

For the meaning of *Clerus* & *Populus*, see Answer from p. 56. to p. 63

E But it lies upon me to shew when and how the Curia Regis went off, *Communia placita non sequantur Curiam nostram sed teneantur in aliquo loco certo.* Hereby the Administration was taken from the ordinary Curia, and fixed at the Courts in Westminster.

P. 191. Magna Charta c. 11.

F The Kings ordinary Court, or at least a great part of it, remains still, viz. the Kings-Bench, and went not off by reason of this Article in *Magna Charta*, and he would have found a better reason in *Britton*, how the Kings ordinary Court went off, or rather was branched out, and divided into several Courts and Jurisdictions, because the King was not sufficient to hear and determine all the Complaints of his People, &c. as we have said before, in shewing what the Kings ordinary Court in ancient time was. Nor could this Clause in *Magna Charta* be any ways prejudicial, or abate the Power and Jurisdiction of the Common Council of the Kingdom, mentioned in King John's Charter, (he making that all along in his

P. 1. a. & *Britton*, fol. 108. a.

A a

Discourse

Paris, fol. 257.
n. 30.

Discourse the *Curia Ordinaria*) for those words, *Communia placita non sequantur Curiam nostram, sed teneantur in aliquo loco certo*, are in King John's *Magna Charta*, within five lines after the provision made for the Summons of the Great Barons, and all other *Tenents in Capite*, which were only the Constituent parts of that Great Council: So that if this Council summoned as there is directed, were the *Curia Regis Ordinaria*, and went off by reason of this Clause, it certainly went off before it began; which could not be: And 'tis manifestly proved in the Answer, that after the Granting of this Charter by King John, there were many General and Great Councils, or *Colloquiums* summoned by Edict according to the Form there prescribed.

A

* F. 130 D, & C.

And if any Man desires to know the period of these Great Councils, and how they went off, let him read the Historical Account of the Parliament 49th of Henry the Third, and of some other Parliaments afterwards, in the Answer, * &c. too long to be inserted here.

B

From p. 193. to p. 219. this Author labors much, to invalidate the Right of the Bishops to Vote in Capital Causes, and thinks he hath wholly defeated the solid and learned Treatise, called, *The Grand Question*, &c. But if he thinks fit to read over that Book once more, and to observe it well, and compare it with what he hath said, he will find it anticipated and answered; and if he hath not a mighty strong Fancy of his own Abilities, must be ashamed of his Impertinent Rapsody. There is nothing said worthy the notice of this learned Author, and the Controversie is Foreign to my Design.

C

P. 219.

I shall give (saith the Author of this new Face) one plain Instance of a Great Council, and another of an ordinary Court in this Kings Reign (meaning Hen. 2.)

D

Benedictus Abbas, p. 72. in Bib. Cotton. Ful. A xi.

Circa Festum Sancti Pauli venit Dominus Rex usq; Northampton & magnum ibi celebravit concilium de statutis Regni sui coram Episcopis, Comitibus & Barinibus Terra, & coram eis, per Concilium Comitum & Baronum, Militum & Hominum suorum hanc subscriptam assisam Fecit, &c.

This was more than an ordinary Curia, and there being the Barones Terræ, the Milites & Homines sui, are not to be taken for his Feudal Tenents, but his Liege People.

E

Milites & Homines sui, were the Kings Feudal Tenents.

Notwithstanding the *Barones Terra* are mentioned in this Great Council, why are not the *Milites & Homines sui* the Kings Feudal Tenents? In King John's Charter 'tis said, that all the Great Barons (which properly were *Barones Regni, Barones Angliæ*, or *Barones Terra*) should have particular Summons, & *omnes alii qui de nobis Tenent in Capite*; all others that held of the King in Chief, which here are expressed by *Milites & Homines sui*, should have general Summons by the Sheriffs of Counties. So that this is a plain Instance of a Great Council, according to King John's Charter, and proves that to be more than an ordinary Curia. And further, If the *Milites & Homines sui* were not the Kings Feudal Tenents, but his Liege People,

F

People, that is, the Kings Subjects in general, then Tradesmen, Servants, and vast numbers of others of the Kings Liege-People, were Members of this Great Council, which no Body, I think, but himself and Mr. *Petyt* will aver.

A In Page 49 he says, *Fulcherus homo Vicecomitis*, was his Tenent in Knights Service; and why are not *Homines sui*, that is, *Regis*, the Kings Tenents in Knights Service in this place? that is, his *Tenents in Capite*, or Feudal Tenents; he ought to give some reason for his Confidence, before he can think to be believed.

B But this *Adamantine* Forehead, in his Reflections upon *Antidotum Britannicorum*, &c. printed with the Lord *Hollis's* Remains, A.D. 1682. p. 247. hath cited over again, this very place, out of *Benedictus Abbas*, as he hath cited it here, and in the same words. To prove there was a difference between the *Barones Regis*, & *Regni*, and that there were other Barons of the Kingdom than the Kings great *Tenents in Capite*; and thus Comments upon it.

C I conceive the difference between *Baro Regni*, and *Regis*, is sufficiently shewn in this Authority (meaning this Citation:) Here are *Barones Terra*, or *Regni*, and *Barones, Milites*, and *Homines sui*; Here either all the *Barones Regni* were *Barones Regis* or *sui*: And then his distinction between *Baro Regni* and *Baro Regis* falls to the ground, there being no difference; or else there is that very difference I stand upon, *viz.* That the *Barones Regni* were comprehensive of all sorts of Barons; the *Barones Regis* were the Kings *Tenents in Capite*, amongst which there were Knights at least; and the *Homines sui*, I take it, were his Great Officers and Justices. These made a Select Council, acting in Parliament or out of it, either in a full Body, or contracted by Agreement, as I could easily shew.

The Reflectors own words, p. 247.

D These Deductions caused me to look again into this Author, and I found that in Transcribing this Passage, he had left out the very words which would have directed the Reader to the understanding of the Difference here made, by *Benedictus Abbas*, between the *Comites & Barones Terra*, and the *Comites, Barones, Milites & Homines sui*; the true Transcript, and words of the Monk are these.

E Anno 1176. (which was the 25th of Hen. 2.) Circa Festum Conversionis Sancti Pauli, venit Dominus Rex usque Northampton, & Magnum ibi celebravit Concilium de Statutis Regni sui, coram Episcopis, & Comitibus, & Baronibus, Terra sue; & coram eis, per Concilium Regis Henrici filii sui, & per Concilium Comitum, & Baronum, & Militum, & hominum suorum, Hanc subscriptam assisam fecit, &c.

Benedictus Abbas, p. 72. b. lin. 5. sub Effigie Julii. A. xi. in Biblioth. Cotton.

F King Henry the Second, when he had caused his Son to be Crowned, A. D. 1170. and caused also the Earls and Barons to do Homage, and Swear Fealty to him; (saving the Homage and Fealty they had done, and sworn to himself) he granted him the Government of the Kingdom in his Absence, and caused a new Seal to be made for him, by which he was to manage it. And it cannot be doubted, but that to make him look more like a King, he assigned

Ibid. p. 30 a.

Ibidem.

* Or they might be called his Earls, Barons, Knights and Men, because they had done Homage, and sworn Allegiance to him.

some Earls and Barons, Knights, and other Military-men, who attuned Tenents to him, or some new Earls and Barons were created, as immediate Dependents on him, and the Knights and other Military Tenents followed, and held on the Lands, Manners, and Honors that were assigned to maintain and support his Court and Kingship, * and the Kings *Comites* and *Barones Terra sua*, were the Earls and Barons of his Kingdom, that held immediately of him, or were his immediate *Tenents in Capite*.

In his Coment upon so much as he had transcribed out of the Monk, he says he could easily shew some things he only points at there; and well he may, with the Liberty he takes to leave out the most material words in what he cites, that direct the true meaning of an Author or Record, and then joyn the other parts of it together as he pleaseth, and so makes an Authority for his own purpose, which without such villainous Practices, could not have been produced to give the least advantage to his Groundless, Seditious, and popular Opinions. As in this Case he hath left out the word *Sue*, after the word *Terra*, which would have ascertained what the Earls and Barons first mentioned were; and then after the words, *& Coram eis*, he hath left out this Sentence, and *Per Concilium Regis Henrici filii sui*, before these words which were annexed to, and were part of it, *& Comitum, Baronum, Militum, & hominum suorum*; that is, King Henry, the Sons, Earls, Barons, Knights, and Military Tenents, mentioned in the second place. If this passage of *Benedictus Abbas*, be good Authority, it directly proves, that the great Councils or Parlements of those times, consisted only of the *Tenents in Capite*, or whom besides the King was pleased to call, and that he might call such as he pleased. The Assize made in this Great Council, were the Articles of Inquiry for the Justices Itinerant, or the Heads of the *Iter*. The Division of the Kingdom into six parts, or Circuits, and appointing Justices to every Circuit.

Hoved, fol 313
a. n. 50.

* He mistook Nottingham for Northampton. 'Tis probable it should have been Northampton as in Ben. Abbas.

King Henry the Second's Son, was Crowned King in his Life-time, and dyed before his Father.

Roger de Hoveden, at this time one of Henry the Second's Clerks, repeats the constituent parts of this Great Council, somewhat otherwise than they are found in *Benedictus Abbas*, An. Gratia 1176. *Post natale Domini in Festo conversionis Sancti Pauli venit Dominus Rex Pater usq; * Nottingham, & ibi celebravit magnum concilium de statutis Regni & coram Rege Filio suo, & coram Archiepiscopis, Episcopis, Comitibus & Baronibus Regni sui, Communi omnium concilio, Divisit Regnum in sex partes, per quarum singulas tres Justiciarios itinerantes Constituit, &c.* In the year of Grace, 1176. after Christmass, in the Feast of the Conversion of St. Paul, King Henry the Father, came to Nottingham, or Northampton, and held a Great Council there, concerning the Statutes of his Kingdom, before the King his Son, and before the Archbishops, Bishops, Earls and Barons of his Kingdom.

The *Milites & Homines sui*, being *Tenents in Capite*, were here comprehended in the word *Barones*, and 'tis very usual for the *Tenents in Chief* to be stiled Barons. Histories are full of Instances every where, and it is needless to produce any; of these consisted the *Baronage* of England, as in the Answer P. 146. Notwithstanding, 'tis highly probable that the Great Barons were ever created

by

by Ceremony, as Mr. Elfyng seems to have proved in his manner of holding Parliaments, from p. 28. to p. 46. and there is a notable Instance in *Hoveden* to this purpose. *Eodem Die Coronationis sua Johannes Rex accinxit Willielmum Barescallum gladio Comitatus de Striguil, & Ganfridum filium Petri gladio Comitatus de Eber.* Qui licet ante vocati essent Comites, & administrationem suorum Comitatum habuissent, tamen non erant accincti Gladio Comitatus.

A Other Ceremonies were anciently used in the Creation of Earls, Barons, &c. as Investiture by Robes, Delivery of Banners, Gold Rings, &c. but not all of them perhaps here in England.

Fol. 451. a. n.
40. Anno Do-
mini 1199.

This Relation of *Hoveden's* of the same Council, is a clear Explication of the other in *Benedictus Abbas*, who in all probability was Abbat of *Peterborough*, and wrote the Life of *Henry* the Second, and died before *Hoveden*, whom he mentions as one of the Kings Clerks, p. 65. a. linea penultima.

Pissus.

Ralph de Diceto Dean of *St. Pauls*, Anno Domini 1210. a diligent searcher into the Histories and Transactions of his own and former times, doth yet more fully declare the meaning of *Benedictus Abbas*, in the Account he gives of this Great Council.

Pissus in that
year.

Rex juxta Consilium filii sui Regis coram Episcopis, Comitibus, Baronibus, Militibus, & aliis hominibus suis, in hoc consentientibus, constituit Justiciarios in sex partibus Regni sui, in unaquaque tres, qui Juraverunt quod suam cuique Justitiam conservabunt. Hoc autem factum est apud Northampton, vii Kal. Februar: which is the day after the Conversion of *St. Paul*, and agrees with the time of *Benedictus Abbas*; and here is certainly his meaning clearly discovered, and by the words it is evident, that only *Tenents in Capite*, and in Military-Service, were the constituent parts of this Parliament or Great Council.

Imag. Histor.
Col. 588. n. 40.

This Instance of a Great Council being dispatcht, which no knowing man can think that it consisted of any other Persons than *Tenents in Capite*. I come to his second Instance concerning the *Curia Ordinaria*, or the Kings Ordinary Court.

This Instance is taken out of Sir *Henry Spelman's Glossary* in the word *Finis*; and 'tis from the Form of a Fine Levyed in the Ordinary *Curia*.

P. 219, 220.

Hac est finalis Conventio facta in Curia Domini Regis apud Clarendum Anno 33 Regis Hen. secundi coram Domino Rege & Johan. filio suo & aliis Baronibus & fidelibus qui tunc ibi presentes erant, &c.

At Clarendon
in Wiltshire
our ancient
Kings had a
Palace.

The words in *Spelman* are these, *Hac est finalis Conventio, facta in Curia Domini Regis apud Clarendum anno 33 Regni Regis Hen. secundi, coram Domino Rege & Johanne filio Ejus & Ra. de Glanvil & Hubert Decan. Eborac. & Rad. Archidiacon. Hereford. & Robert. de Witefeld, & Roger. fil. Reinfr. & Roberto de Inglesham Archidiacon. Glocestr. & Josel. Archid. magistro Thoma de Bussacurn, Mich. Belet, & aliis Baronibus, & fidelibus Domini Regis qui tunc ibi presentes erant.*

This

This is the Final Agreement made in the Court of the Lord the King at Clarendon, in the 33 year of the Reign of King Henry the Second, before the Lord the King, and John his Son, and Ranulph de Glanvil, and Hubert Dean of York, and Ralph Archdeacon of Hereford, and Robert de Witefeld, and Robert Fitz-Reinfrid, and Robert de Inglesham Archdeacon of Glocester, and Josel Archdeacon Mr. Thomas de Buffecurn, Mich. Belet, and other Barons and Feudataries of the Lord the King which were then present.

A

Dugd. Chron.
Series, Fol. 4.
Annis 26. &
33 Hen. 2.
Ibid:m.

The most of these Persons, Archdeacons, and others, were the Kings Justices; and at this time his Court was wheresoever he was; The very same year there was a Fine Levied in Curia Regis apud Cantuariam Die veneris prox. post festum Sancti Johannis Baptiste present. Rad. Archdiac. Colcest. Roger. fil. Reinfrid, Robert de Witefeld, Mich. Belet. The very same Justices.

B

This was certainly an ordinary Court, such as is described before in these Animadversions, and was holden before the King and his Council, Coram Rege & Concilio, his Privy-Council, and that was the Reason of the Addition of, & aliis Baronibus, & Fidelibus Domini Regis qui tunc ibi presentes erant, after the Justices.

But this was no such Curia, or Common-Council of the Kingdom, as is mentioned in King John's Charter, which all along he hath from the beginning of his Book, affirmed, was a Curia Ordinaria, for the dispatch of Ordinary Business only.

C

The Kings ordinary Court remained after the Common Council according to King John's Charter was abolished.

When this Common-Council of the Kingdom established by King John's Charter, ceased to be after the 49th of Henry the Third, yet the Kings Ordinary Court continued in the several Kings Reigns, in all its Branches, Divisions, and Derivative Jurisdictions, and therefore not the same; for the Kings-Bench, and Common-Pleas, those two parts of it which were Stationary in Westminster-Hall, there can be no doubt made of them; and for the Court also which retained the Title of Coram Rege & Concilio, there is a notable Case and Record cited by Sir Edward Coke.

D

4. Institut. fol. 60.

A Suit depending before the King and Council between the Abbat of St. Austins Canterbury, and others, concerning Wrecks, &c. The Abbat brought his Action at Common-Law against the Parties, who being thereupon Arrested and Imprisoned, the Sheriff was commanded by the Kings Writ to deliver them, and to forbear to serve any Process against them, and the Reason there given (saith Sir Edward) is notable.

E

Rot. Cl. 16.
Ric 2. (m) 11.
Dorf.

Quia non est juri Consonum, aut honestum, quod aliquis de hiis que coram nobis & Concilio nostro in Discussionem pendent, alibi inde interim placitari debeat aut apparere. That is, because it is not Consonant to right, or honest, that any Man should be impleaded, or appear any where for any things, that are in dispute before Us and our Council.

F

What hath been said in the Canvassing these two Instances, and what delivered before about the Kings Ordinary Court, may satisfy any Man concerning this Authors own Groundless Notion of Curia Ordinaria,

Ordinaria, and Generale Concilium, and are sufficient to discover his Ignorances, in that he hath cited Records and Histories, and given Instances directly against himself.

A *Rex Congregatis Episcopis, Comitibus, & Baronibus, Regni sui Parlamentum habuit & tractatum.* This says our Author was manifestly more than the *Curia Regis*. True, it was manifestly a Common-Council of the Kingdom, as it was afterwards established by King John's Charter. Here was never a Free-holder, but such as held of the King in Military-Service, that is, *Tenents in Capite*.

P. 220.
Note Parla-
mentum for
Colloquium.

King John says in one of his Charters, he came to the Crown, Jure Hereditario, mediante tam Cleri quam populi, unanimi consensu & favore.

P. 221.
His Elder Bro-
thers Son Ar-
thur D. of Brit-
tan was then
living.

B *Congregatis Archiepiscopis, Episcopis, Comitibus & Baronibus & aliis omnibus.* I shall add what the Gentleman hath left out, *qui hujus Coronationi interesse debuerant*; which relates to the *aliis omnibus*.

Paris, fol. 197.
(*) 20.
Ibid. p. 221.

I cannot see to what purpose he useth these Citations; however, for his satisfaction, the Reader may see how King John came to the Crown, in the Answer, f. 33. A. &c.

C From London King John issues out Summons to William King of Scots, to attend him at Lincoln, which Summons he was obliged to obey as one of his Tenents in Chief; nor was it the place or time of the Curia de More, and therefore the Curia and General Council was united; the King of Scots coming as Attendant upon the Curia, *Convenerunt interea ad Colloquium apud Lincolniam, Rex Anglorum Johannes & Rex Scotorum Willielmus cum universa Nobilitate tam Cleri quam Populi utriusque Regni undecimo Kalendas Decembris.* As under the Nobility, the Senators of Scotland, were comprehended all the Freeholders at that time beyond Dispute, 'tis probable at least, that our Nobility was of the same Extent. And for the Probability of the Assembling of so great a Body as the Proprietors of both Kingdoms must have made even then, 'tis observable that the Meeting was without the Walls, for the City was not able to hold them. The King of Scots did Homage upon a Mountain, in Conspectu omnis populi, before all the People, the United Body of the Freeholders of both Kingdoms.

P. 222.

E The words of Mat. Paris, from whence this Gentleman had the Story, are these: *Convenerunt ad Colloquium apud Lincolniam, Rex Anglorum Johannes & Rex Scotorum Willielmus, cum universa Nobilitate tam Cleri, quam Populi, utriusque Regni, Undecimo Kalendas Decembris, Et eodem die Convenerunt ipse & Rex Scotorum Extra Civitatem in Montem arduum, & ibi in Conspectu Omnis Populi, Willielmus Rex Scotiae fecit Homagium Regi Johanni de omni Jure suo; & postea Juravit ei Fidelitatem, super Crucem Huberti Cantuariensis Archiepiscopi, de Vita & Membris, & honore terreno, Contra omnes homines, Coram cunctis Magnatibus Regni.* John King of England, and William King of Scotland, met at a Conference at Lincoln with all the Nobility, as well of the Clergy as Laity, of both Kingdoms, upon the 21th of November; and the same day they met upon a steep Hill without the City, and there in the sight of all the People,

Mat. Paris,
196. so cited
by our Author
See the An-
swer to his
Supplemental
or last Argu-
ment, who
were the No-
bility and
Freeholders of
Scotland.

P. 223.

Fol. 204. n. 30
40. Anno Dom.
1200. 1. Joh.

See the An-
swer, f. 31. B.
why in this
place Populus
is to be turned
Laity, and in
other parts of
it.

People, *William* King of *Scotland* did Homage to King *John* for all his Right, and afterward sware Fealty to him upon the Cross of *Hubert* Archbishop of *Canterbury*, of Life and Limb, and Terrene Honor against all men, before all the Great Men of the Kingdom. This is all *Paris* hath of this Story.

And he hath it from *Hoveden*, and transcribes his words; yet *Hoveden*'s Relation is more full and clear, and I therefore transcribe so much of it as is necessary, because he lived also, and wrote at the very time, and also because it will detect this Writers monstrous abusing of History.

*Hoved. f. 461.
b. lin. 4. & n. 10.
20. 30.*

That is the 21
of November.

Ibid. n. 40.

Johannes Rex Angliæ statim post Coronationem suam misit Philippum Dunelmensem Episcopum, &c. *John* King of *England*, soon after his Coronation, sent *Philip* Bishop of *Durham*, *Roger Bigot* Earl of *Norfolk*, *Hen. de Bohun*, Earl of *Hereford*, *David* Earl of *Huntington*, the King of *Scots* Brother, *Roger Lacy* Constable of *Chester*, *William de Vesey*, *Robert de Ros*, and *Rob. Fitz-Roger*, Sheriff of *Northumberland*, to *William* King of *Scots*, with Letters of safe Conduct, to bring him to the King of *England*, and appointed him a day to meet him at *Lincoln*, in *Crastino Sancti Edmundi*; and then it follows within a few lines, *Undecimo Kalendas Decembris*, (which is the 21 of November) *feria tertia Johannes Rex Angliæ & Willielmus Rex Scotia Convenerunt apud Lincolniam, & in Crastino, viz. 10 Kal. Decemb. feria quarta Johannes Rex Angliæ intrepidus & contra consilium Multorum, intravit Ecclesiam Cathedralem Lincolnensem & obtulit super Altare Sancti Johannis Baptiste quod est in novo opere Calicem aureum. Deinde eodem Die ipse & Willielmus Rex Scotorum Convenerunt ad Colloquium extra Civitatem Lincolniam super Montem arduum, & ibi in conspectu omnis populi, Willielmus Rex Scotorum devenit homo Johannis Regis Angliæ de jure suo, & juravit fidelitatem super crucem Huberti Cantuariensis Archiepiscopi de vita & Membris, & terreno honore suo contra omnes homines, & de pace servanda sibi & Regno suo, salvo jure suo; Testibus hiis. Huberto Cantuariensi, Johanne Dublinensi, Bernardo Ragnensi Archiepiscopis.* (This last *Bernard*, Archbishop of *Raguse* might probably be the Popes Legate) Eleven other English and Welsh Bishops, and the Bishop of *St. Andrews* in *Scotland*. *Geoffrey Fitz-Peter*, Earl of *Essex*, and Justiciary of *England*, eight other Earls, the Prince of *Galway*, *Patrick* Earl of *Lonais*, *Griffin*, Son to *Refe*, King of *South-Wales*, and many others of the Kingdom of *Scotland*, and before the Barons of *England* and *Normandy*, *Roger* Constable of *Chester*, *Eustace de Vesey*, and *Robert de Ros*, and fourteen others there named, & aliis multis de Baronibus Angliæ & Normannie; and many others of the Barons of *England* and *Normandy*. These Bishops, Earls and Barons, were those which *Paris* calls *Magnates Regni*, when he says this great Ceremony was performed before all the Great Men of the Kingdom. *Facto itaque homagio suo, Willielmus Rex Scotia petiit à Johanne Rege Angliæ Domino suo totam Northumbriam, & Cumbriam, & Westmerland sicut jus suum & hereditatem suam.* Of which King *John* took time to consider until *Whitsunday* following; all this was done on the tenth of the Calends of *December*, or the 22th of *November*, and the next Morning, (in *crastino summo mane viz. Nono Kal. Decembris*) *William* King of *Scots* returned into his own Country, under the Conduct

Conduct of those that brought, or conducted him to the King of England.

A Whoever consideratively reads either of these Relations, but especially this last of *Hoveaen*, cannot but wonder at the Confidence of this Writer, who pretends to find out both an ordinary Court, and General Council in this Assembly, which was only designed to attest, and see the Homage of the King of *Scots* done to the King of *England*, and to make it more notorious and conspicuous, which was the reason of the Circumstance of its being performed upon a steep Hill without the City, that the People might see it done and take the more notice of it. And that this was the only Business of this Meeting 'tis certain, because we find no Summons to it, nor other Matter transacted in it.

B It is admirable how he finds out of the Relation of *Paris*, to which he confines himself (to use his own words) That under the Nobility of *Scotland* were comprehended all the Freeholders without dispute, and that 'tis probable, at least, that the Nobility of *England* was of the same Extent; That is, that all **Freeholders** were **Noble-men**. 'Tis marvelous how he finds the united Body of Freeholders of both Kingdoms at this meeting at *Lincoln*; Had it been safe for the Kingdom to have admitted so great numbers of Scots? How should

C the Nation have got rid of them? We had but a small parcel of the ordinary ones, about 34 or 35 years since, and we were forced to Swear and Covenant with them, and give them a round Sum of Money to be gone. 'Tis mighty strange, that the English Noblemen, who went to conduct the King of *Scots*, should go thither, and that he and the Body of the Freeholders of his Kingdom, some whereof must come from the furthest part of *Scotland*, should come together in *Scotland*, when the days were almost at the shortest, and march from thence to *Lincoln* in 44 days time; more they had not,

D for King *John* was Crowned at *Westminster* on the eighth of *October*, and it was after his Coronation he sent a Convoy for the King of Scots, with Letters of safe Conduct, and he came to *Lincoln* the 21 of *November*, which makes but 44 short days. All his Deductions from this Story are so far remote from Reason and Sense, that no Man but himself could ever have thought of them. These are his Coments upon, and this the Work he makes, with all the Fragments of Records and History he makes use of.

E And then I take it (in the year 1204.) Provision was made for the Defence of the Kingdom, (viz.) That every nine Knights throughout the Kingdom should find a Tenth armed at all points to be ready in *Servitio nostro ad defensionem Regni quantum opus fuerit. This to be sure, reach'd further than to the Knights, by Military Tenure, because every one that held a Knights Fee, was by his Tenure to find a Man, and consequently this would have weakened the Kingdom to abate of their Services, but it must needs have extended to all that held to the value of a Knights Fee, though not by Knights Service. This was provided Communi assensu Archiep. Ep. Com. Baronum & omnium fidelium nostrorum Angliæ. And so a general Land-Tax.*

300000 l.

Ibid. fol. 461. a. n. 40.

P. 225.

Nine Knights throughout the Kingdom to find a Tenth.

Rot. Pat. 6. Johannis, M. 2. Dor.

Whether the nine Knights were Tenents in Military Service, or Freeholders in Soccage Tenure, that is, such as our Common Freeholders are at this day; or whether the Money the Tenth Knight was to receive for his Wages, was raised by a general Land-Tax, the Record it self will determine it; 'tis worth observing, and here Printed N. 2. This Record is here interpreted, at the common rate of this Writers Comenting.

In great Expeditions, a less number of Knights found one to do the Service at a Common Charge. *Rex Henricus magnam paravit Expeditionem, ita ut duo Milites de tota Anglia tertium invenirent, ad expugnandum Wallenses.* The King prepared a great Expedition into Wales, so as two Knights found a third.

Mat. Paris,
fol. 96. n. 5C.
A.D. 1157.

P. 237.

Paris, fol. 913.
n. 40. Ann.
Dom. 1255
39 Hen. 3.

The Baronagium, or omnes fere Angliæ Magnates refused to give a Royal Aid demanded of them, the ground of their refusal is very remarkable. *Quod omnes tunc temporis non fuerunt juxta tenorem Magnæ Chartæ suæ vocati.* This some would render, and call King John's Charter, and that the Complaint was, that the Peers had not their particular Summons, according to the Tenor of that Charter. But it is Chartæ suæ, not Chartæ Regis Johannis Patris Regis nunc. 'Tis the then King Henry the Third's Charter.

King John's
Magna Charta
and *K. Hen. 3.*
the same.

King John's Charter, and King Henry the Third his Charter, will appear to be, and were the very same, notwithstanding his unintelligible Reasons to the contrary.

Mat. Paris relating the manner how, and upon what consideration King Henry the Third, in the Ninth of his Reign, Granted his Charters; tells us, that being Sealed with the Kings Seal, they were sent into all Counties of England, and that *istarum tenor chartarum habetur expressius, ubi historia agitur de Rege Johanne; Ita quod Charta utrumque Regum in nullo inveniuntur dissimiles.* That is, the Tenor of those Charters may be found more expressly in the History of King John, so as the Charters of both Kings were not found to disagree in any thing: and it is no impropriety of Speech of the Barons, to say to King Henry, that King John's Charter was his Charter, when he had Granted it to them in the Ninth of his Reign, and confirmed it with dreadful Curses, according to the mode of those times, in the 37th of his Reign; for the same Historian relating this Solemn Confirmation of *Magna Charta*, says, *Rex bona fide, & sine aliqua cavillatione promisit se Magnam Chartam & omnes ejus articulos fideliter observaturum. Quam à multis retroactis annis, Pater ejus Rex Johannes tenere Juravit;* the King promised faithfully, without any Cavil, to observe *Magna Charta* and all its Articles, as his Father King John had done many years before.

They were
alike in all
things.

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Paris ut supra.
*So it is called
in this place,
if any stress
be to be laid
upon that
word.

This Confirmation was but two years before the Barons gave this Reason to King Henry, that they would not answer in *Parliament, or give any Aid, because their Peers were absent, not being called according to his *Magna Charta*. This single Instance is sufficient to prove, that the Common-Council of the Kingdom, mentioned in King John's Charter, was the General Council of the Kingdom; nor need I examine his Book further, if it were not to let his Readers

see

see how he hath cheated them, and abused, and wrested the Records and Histories he hath cited.

Three years after this Answer, 42 Hen. 3. the Barons at Oxford require of him, the Confirmation of King John's Charter. *Ut Dominus Rex Chartam libertatum Anglia quam Johannes Rex Pater ejus suis Anglis confecit, & confectam concessit.*

Ibid. fol. 970.
n. 50.

A *Quamque Idem Johannes tenere Juravit, fideliter teneat, & observet, quamque idem Rex Henricus multoties concesserat & tenere Juraverat, ejusque infrañtores, ab omnibus Angliæ Episcopis, in presentia sua, & Totius Baronagii, horribiliter fecit Excommunicari, & ipse fuit unus Excommunicantium.* Which Excommunication was performed in the 37th year of his Reign, but five years before.

B Five years after that, in the 47th of Henry the Third, when the differences between himself and the Barons were referred to the King of France; he nulled the Provisions made at Oxford; but said, by that he intended not altogether to abrogate King John's Charter, and therefore the Earl of Leicester, *Sim. Montfort* would not acquiesce in the King of France his Judgment, because the Provisions of Oxford, as he said, were founded upon that Charter. Here is proof enough, that the Charters of King John and Henry the Third, were the very same.

Ibid. fol. 993.
n. 10.

C The Great Charter commonly attributed to Henry the Third, and stiled his Charter in our Statute-Books, was properly the Charter of Edward the First, or perhaps rather his Explication or Inlargement of that Charter of King John and Henry the Third. For we find not the Great Charter, either of that, or King John's Form in any of the Rolls, until the 25th of Edward the First, and he had a greater Sum of Money for confirming this Charter than Henry the Third had, as 'tis Recorded in the Summons to Parliament for that purpose.

The Charter
of K. Edw. 1.

D *Rex Vic. Ebor. Salut. quia in Relevationem omnium incolarum & populi Regni nostri Pro octava omnium honorum singulorum laicorum per totum idem Regnum, pro urgentissima nunc dicti Regni contra Gallicos necessitate levanda, concessimus pro nobis & heredibus nostris, confirmare, & firmiter teneri facere Magnam Chartam de libertatibus Anglia, & Chartam de libertatibus forest. &c. Tili precipimus firmiter injungentes, quod sine dilatione aliqua duos de probioribus & Legalioribus Militibus, &c. Eligi, & eos ad Edw. filium nostrum, &c. venire facias, &c.*

Cl. 25 Edw. 1.
M. b. Dorf. de
veniendo pro
confirmatione
Magna Charta:

F In this Charter then confirmed, there is no Provision made for any Summons to Great Councils or Parliaments, and the reason may well be, because the Constitution of Great Councils or Parliaments was lately changed, from what it was in King John's time, and til the 49th of Henry the Third, nor perhaps was it so fixed, and peremptorily resolved on at this time, what it should exactly be for the future, as to have it made an Article of the Charter, and to this conjecture the frequent Variations of Summons to Parliament in those times, do give a probable Confirmation.

See the Re-
cords at the
end of the
Answer.

P. 244.

Page 244. This Writer cites a Record by parcels, and besides to make it more specious to serve his purpose, he leaves out the beginning and end of it. The whole Record is as followeth.

Rot. Cl. 38. H.
2. m. 7. & 12.
The Preamble
of the Writ.
All this is left
out by this
Writer.

Rex Vic. Bed. & Bucks, Salutem. Cum Comites & Barones & ceteri Magnates Regni nostri nobis firmiter promiserunt, Quod erunt London à Die Pasche proxim. futur. in tres septimanas cum Equis & Armis Parati, & bene Minuti ad tendendum sine ulla Dilatatione Versus Portsmouth, & transfretand. ad nos in Vasconiam Contra Regem Cast. l. qui terram nostram Vasconie in Manu forti in astate proxima futura hostiliter est ingressurus.

A

King Henry's
seeming Writ
for two
Knights ex-
plained.

Et tibi precipimus quod omnes illos de Balliva tua qui Tenent. 20 Librate terra de nobis in Capite, vel de aliis qui sunt infra atatem, & in Custodia nostra ad idem distringas. Tibi Districte precipimus quod Preter omnes Predictos, venire facias Coram Concilio nostro apud Westmonasterium in Quindena Pascha proxime futur. Quatuor Le-gales & Discretos Milites de Comitatus predictis, quod iidem Co-mitatus ad hoc Eligerint, vice omnium & singulorum Eorundem; viz. Duos de uno Comitatu & duos de alio ad providendum una Cum Mili-tibus aliorum Comitatum, quos ad eundem diem Vocari fecimus, Quale Auxilium nobis in tanta necessitate impendere voluerunt. Et tu ipse Militibus, & aliis de Comitatu predicto necessitatem nostram; & tam urgens negotium nostrum Diligenter Exponas & ad competens Auxi-tium Nobis ad presens impendend. Efficaciter inducas. Ita quod pra-fati quatuor Milites Prefato Concilio nostro ad predictum terminum Pasche Respondere possint super predicto auxilio pro singulis Comitati-bus predictorum.

B

C

This is not
transcribed by
the Writer.

Firmiter etiam tibi precipimus, Quod omnia debita qua nobis à retro sunt, in Balliva tua & solvi debuerint ad scaccarium nostrum ante Pasch. jam instans, habeas ad Idem scaccarium in Quindena predict. Pasche Sciendes, quid nisi predicta debita tunc ibidem habueris, non So-lum Corpus tuum arrestari faciemus, set debita illa de terris & tene-mentis tuis levare faciemus ad Damnum tuum non modicum. Teste A. Regina & R. Com. Cornub. apud Windesore xi die Febr.

D

What he speaks to any purpose upon this Record, is by asking this Question, If the Tenents in chief made the Common Council of the Kingdom till the 49th of Henry the Third, and had a Power to Tax the rest of the Nation, de Alto & Basso ad Meram Voluntatem suam, Why this Summons for a Representative of the Counties?

E

I answer, The History of this time, and the occasion of this Writ, will give any reasonable Man satisfaction why they were summoned.

Paris in addi-
tam. fol. 189.
n. 50.
Hen. 3. wanted
Money in Gas-
coigne.

King Henry being at this time in Gascony, and in great distress for want of Money, he wrote to his Queen and his Brother Richard Earl of Cornwall, who had the Government of the Nation in his absence, to assemble the Archbishops, Bishops, Earls and Barons of the Kingdom of England, and to represent to them his Condition, and the intended Expedition of the King of Castile into Gascony against him; which they did about the latter end of January 1254. in the 38th year of his Reign; and did declare to them what he had directed.

F

directed them. The Barons would part with no Money, as not believing the King of *Castile* would invade *Gascony*, and thinking that Relation but an Artifice to procure a Tax of them. They were drawn into that suspicion by the Insinuations of *Simon Montfort*, who not long before had resigned the Government of that Country to the King, who was indebted to him for it in a great Sum of Money. However, though they did not assist the King according to his Expectation, yet the Earls and Barons promised, that if the King of *Castile* did make War upon him, they would be at *London* three Weeks after *Easter*, ready to march to *Portsmouth*, and there take Ship, and come powerfully to his Assistance against him. Some of the Bishops also promised they would personally come to him with considerable force; and others of them and the Abbots to supply him with Money against the said King of *Castile*, if by force he attempted any thing against him.

Ibid. Hist. f. 887
n. 10.

Ibid. fol. 863.
lin. 1.
Additum, f. 190
lin. 2.

B This being the History, let us consider the Writ, which consists of three Parts, and the occasion of it.

The Design of
the Writ.

C The first part of it is a Precept to the Sheriff of *Bedford* and *Buckingham* Shires, grounded upon the Earls and Barons promise to be at *London* three weeks after *Easter*, fit and prepared to march to *Portsmouth*, &c. To Summon all that held 20 l. per Annum Land of the King in *Capite*, (which was then a Knights Fee) to the same Service, and if need were to Distrein them.

The second part is a Precept to the same Sheriff, to cause to come before the King's Council at *Westminster* four Loyal and Discreet Knights, two for each Shire, such as should be chosen by it, to provide with the Knights of other Counties, what Aid they should afford the King in so great necessity.

D This was not a Summons to a General Council; the King had tried that before, without success. These knights were neither summoned *ad Colloquium vel Tractatum*, (the usual words for Parliamentary Councils in those times) but to appear before the Kings Council fifteen days after *Easter*, six days before the Barons were to meet, (who had denied the King an Aid) to inform them what voluntary Aid each particular County would give the King in his great necessity toward the Defence of *Gascoigne*, against the intended Invasion of the King of *Castile*.

E Which Necessity and Business the Sheriffs themselves were diligently to declare to the Knights, and others of the County, and effectually to induce them to grant the King a present competent Aid, so as the Knights of each County might answer upon their appearance before the Kings Council at the day prefixed, what they would do concerning this Aid so required of them.

F The third part also is a Command to the Sheriff to Levy and pay in all the King's Debts, under strictest Penalties, into his Exchequer by a certain day, a Clause not to be found in Parliament Writs.

The

The Date of this Writ is likewise to be observed, *Febr. xi.* in the 38th of this King, not many days after the breaking up of the General Council of the Archbishops, Bishops, Abbots, Priors, Earls and Barons, that met either *Jan. 27.* or *29.* this very year, and denyed the King Aid.

Cl. 38 Hen. 3.
m. 7. Dorſe.
The like Writ
directed to Bi-
shops, &c. for
a voluntary
Aid.

The like Writ, and the same Date, *Febr. xi.* at *Windsor*, and the same *Teste* was directed to the Archbishop and Bishops in their several Diocesses, to summon their Chapters, Archdeacons, Clergy, and the Religious Persons in their respective Diocesses before them, and to excite them to a voluntary and liberal Contribution, to supply and relieve the King's Necessities for the Defence of *Gascoigne*, against the designed Invasion of the King of *Castile*.

A

Ibid. in eodem
Brevi.

And the manner and quantity of their Aids, and the Sums they would contribute in this Necessity, were required to be certified from every Bishoprick and Diocess to the Kings Council at *Westminster*, by certain discreet men, fifteen days after *Easter*, the same time the two Knights for every County were to appear before the said Council: Every Bishop with the Clergy and Religious in every distinct Diocess, being to meet and act herein apart by themselves, and were not summoned to meet all together, to advise and resolve of this Aid requested of them.

B

This Resolves our Writers Question, Why two Knights were chosen in every County, and caused to appear before the Kings Council.

C

P. 248.

'Tis to be observed, and cannot be denied by any Antiquary, that Freeholders, and they that came from the Counties as the Representatives of such, had the Appellation of Magnates.

It's very true, that in our antient Parliament-Rolls, the Knights of Shires are sometimes called *Grantz des Counties*, or Great Men of the Counties; and well they might, for without doubt they were most commonly the greatest *Tenents in Capite*, under the degree of great Barons in each County, which were chosen by the Military *Tenents*, to represent the *omnes alios qui de Rege tenebant in Capite*, mentioned in King *John's* Charter, or them and all other Military *Tenents* by mean Tenure: for 'tis scarce to be believed, that those Men, the *Tenents in Capite*, which made such a noise for their Liberties, would part with this main Point, of being personally present, or the Body of them represented by some of their own number in every County; and it may be upon this account they had the Title of *Notable Knights, &c.* in the antient Writs of Summons directed to the Sheriffs.

D

E

P. 248.

In this 248 Page he cites a Record, *Rot. Pat. 37. H. 3. M. 12.* but indeed *M. 13.* Dorſ. but mangles it, and only takes out of it what words he thinks will seduce unwary Readers to have some good opinion of his fancy: *Rex Anglia, R. Comes Norfolc, &c. Caterique Magnates Anglia, consented to the Excommunication of all the Violators of the great Charter, &c.* The Record goes on, he says, *Et Communitas Populi protestantur publice in presentia Arch. Cant. necnon & Episcoporum omnium in eodem Colloquio Existentium.*

F

P. 248.

In

In cuius rei Testimonium, & in posterum veritatis Testimonium tam Dominus Rex quam predicti Comites ad instantiam Magnatum & Populi presentium, scripto sigilla sua apposuerunt.

Ibidem.

Here (saith our Writer) the *Communitas Populi*, were the *Communitas Civitatum & Burgorum* (high Confidence) for the rest were *Magnates*, the King and some Earls subscribed at the desire of the rest.

Ibidem.

A See this Record examined; and the meaning of it fully cleared in the Answer, F. 73. A. &c.

Ibidem.

Our Writer tells us of *Vetus Feoffamentum*, and *Robum*, and says the old Feoffment was of such Fees as were granted from the Crown, and that the *Novum Feoffamentum* was of such Fees as were granted by the Tenents in Capite to others by Sub-Infeodations, or such as the Tenents in Knights Service held by mean Tenure. The Fees of the first, or old Feoffment were all, the Tenents in Capite were answerable for when any Tax was charged upon them; and for the Fees de *Robo Feoffamento*, or which were holden by mean Tenure, or Sub-Infeodation, they could not be charged without the consent of the mean Tenents themselves, or Sub-Fendataries.

P. 236. &c.
to p. 241.

C Upon this Notion he makes a long Discourse, and thinks he hath obtained so much as thereby to prove, that these mean Tenents in Military Services were not Taxed without their own consent, and therefore there were more than the *Tenents in Capite* in the Common Council of the Kingdom.

To destroy this Notion, I shall shew, first, the meaning of the words *Vetus* and *Robum Feoffamentum*, and then the matter of Fact in this case.

D Sir Edward Coke says, *Feoffment* is derived from a French word of Art *Feodum*, quia est *Donatio Feodi*, for the antient Writers of the Law, called a *Feoffment Donatio*, of the word *do* or *dedi*, which is the aptest word of Feoffment. I shall not examine whether *Feodum* was a French word of Art, but take Sir Edward Coke's meaning, that Feoffment was the Gift of a Fee; the word is properly derived from the French word *Fiefment*, which signifies infeoffing, or giving of a Fee, and that from the word *Fief*, a Fee.

First Instit.
fol. 2. a.

E In the Writings of the Feudists we find *Vetus Feudum & Novum*. *Vetus Feudum est, Quod à superiore, hoc est à Prædecessore præsentis Domini Constitutum est, vel Prædecessori Vassalli Concessum. Semper enim antiquum Feudum, de Successore Dicitur, Novum autem Quod & ab eo Domino, & ei Vassallo, de quibus agitur Constitutum est: i. e.*

Hottom. de
Feud. Disput.
c. 6. Col. 819. B.*Vetus & No-
vum Feoffa-
ment.* what
they were.

F An old Fee is that which was given by the Predecessor of the present Lord, or which was granted to the Predecessor of the Vassal. For always an old Fee is called so, in respect it hath descended, or gone in Succession: But a new Fee is that which is given by the present Lord to the present Vassal, of whom we are speaking.

In

ibid. in Lib. 2.
Feud. Tit. 3.
sect.

In another place, *Novum Feudum appellatur, quod ei de quo agitur attributum est; Vetus vero quod ejus Parentibus vel Majoribus.* That is called a New Fee which was given to the present Feudatary; and that is called an Old One, which was given to his Parents or Ancestors.

And hence it was, that according to the King's Writs issued to that purpose, that Tenents in *Capite* did certifie into the Exchequer by Charts under Seal, how many Knights Fees they had *de Veteri & Novo Feoffamento*, that the Court might know whether they had more or fewer Knights Fees than their Predecessors, and so to charge them accordingly, and that they might perform their Homage and Ligeance to the King.

According to this understanding of *Novum & Vetus Feodum* by the *Feudists*, though not in the strictest sense, we have many Instances in every County of *England* of Knights or Soldiers of the Old and New Feoffment in the time of *Henry* the Second, in their Charts or Certificates under Seal, how many Knights Fees, or how many infeoffed Knights they had of Old or New Feoffments, and how many they stood charged for upon their Demains, or Lands which they held in their own hands, and upon which they had no Knights by Feoffment. I will give one Instance that *Vetus* and *Novum Feoffamentum* were only to be understood in respect to former or later time, and not in respect to Feudataries or Persons, or the Feoffments themselves.

A

B

C

D

E

F

S A-

S A L O P S C R.

Carta Rob. de Brimton.

A

Charissimo Dom. suo Legio H. Reg. Angl. &c. suus homo Legius Rob. de Brimton Salutem, Et fidele Servitium; michi & aliis Comparibus meis per literas vestras innotuistis, ut per fidem & Ligantiam quam vobis debemus, vobis per Breve nostrum pendens extra Sigillum, Mandarem quot Milites haberemus de **Veteri Feodamento** ac tempore Hen. Regis avi vestri, & quot Milites habeamus de **Robo Feodamento** post tempus Regis Hen. avi vestri, & quot Milites habeamus super **Dominium** nostrum. Inde est quod vobis ut Dominum meo Charissimo, Mando, Quod de veteri Feodamento nullum Militem habeo prater Feodum unius, quem michi cum quadam liberali Muliere nomine **Eba** qua modo est heres per Servitium unius Militis dedistis, faciendo Servitium ad Custum vestrum, de **Robo** autem **Feodamento** nullum habeo Militem vel super **Dominium** Meum, & vobis quidem, & filio vestro **Dominium** feci, & Ligantiam.

Red Book in the Exchequer, Tit. as here noted.

B

C

The same Certificate of the same Person is to be found in the same Book, Tit. **Stratfordscr.** of one Knights Fee there. There are several of this Tenor, or the like nature Printed at the end of these Animadversions.

D

And this Description of *Vetus & Novum Feoffamentum*, is fully confirmed by the Record he hath produced to settle his Notion: but according to his constant practice, he recites only as much of this Record as in his own Judgment he thinks fits his purpose, and conceals the rest.

P. 339, 340.

E

Rex Vicecomiti Somerset Salutem, Scias quod Comites & Barones, & omnes alii de toto Regno nostro Angl. Spontanea voluntate sua; & sine Consuet. Concesserunt nobis Efficax Auxilium ad magna negotia nostra Expediend. Unde provisum est de Consilio illorum quod habeamus de singulis Feodis Militum que de nobis tenent in Capite & de Wardis, tam de Robo Feoffamento quam de veteri, duas Cartas.

Claus. 19. H. 3. M. 6. Dors.

Thus much and no more of this Record is quoted by this Writer; the other part follows.

F

Ad Auxilium predictum nobis faciendum, unde providerunt reddere nobis unam Medietatem ad Festum Sancti Michaelis anno decimo nono, & aliam Medietatem ad Pascha, anno, &c. 20. Providerunt etiam, quod predictum Scutagium Colligatur per Manus Ballivorum suorum in singulis Comitatus, & tradatur per Manus eorundem, Duobus Militibus, Quos ad hoc assignavimus in singulis Comitatus deferend. ad scaccarium nostrum Lond. & liberand. ibidem Thes. & Camerariis nostris, & ideo Tibi precipimus Quod ad Mandatum omnium Comitum & Baronum & omnium aliorum, Qui de nobis Tenent in Capite in Balliva pra-

C c

dicta

dicta modo prædicto sine Dilatione Distringas omnes Milites & Libere Tenentes qui de eis Tenent per servitium Militare in Balliva tua ad reddendum Ballivis suis de Singulis Feodis & Wardis Duas Marcas ad prædictum Auxilium nobis Faciendum in Terminis prædictis, & liberandum Johanni de Aure, & Hen. de Meriet quos ad hoc assignavimus in Comitatu tuo sicut prædictum est, &c. Teste meipso apud Westm. xvii Julii, anno, &c. xix.

Who were charged in this Writ two Marks for every Knights Fee that was holden *in Capite*, as well of the **New Feoffment** as of the **Old**, but the *Tenents in Capite*? To whom is the **Novum Feoffamentum** in this Writ affixed but the *Tenents in Capite*? A

Who gathered this Tax but the Earls, Barons, and *Tenents in Capite* by their Bayliffs? B

Who were to be Distreined by virtue of this Writ, to pay two Marks for every Fee at the command of the Earls, Barons, and *Tenents in Capite*, but their Sub-Feudataries and Under-Tenents, the *Milites & Libere Tenentes de eis per Servitium Militare*, Knights and Freeholders, which held of them by Military Service? C

Who were the *Omnes alii de Regno* besides the Earls and Barons that granted this Tax, but the *Omnes alii qui de nobis Tenent in Capite*, (mentioned in that part of the Writ he hath concealed) at whose Command the Sheriff was by the Kings Precept to Distrein their Under-Tenents? D

This is evident beyond contradiction by another Writ to the Sheriff of *Suffex* about the very same Tax.

Cl. 19 Hen. 3.
M. 8. Dorf,

Rex Vicecom. Suffex Salutem, Scias, Quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & omnes alii de Regno nostro Angl. qui de nobis Tenent in Capite Spontanea voluntate sua & sine Consuetudine, Concesserunt nobis Efficax Auxilium ad Magna negotia nostra Expedienda. Unde provisum est de Consilio illorum, Quod habeamus de singulis Feodis Militum & Wardis, que de nobis Tenent in Capite duas Marcas, ad prædictum Auxilium nobis faciendum, & unde providerint reddere nobis unam medietatem ante Festum Sancti Michaelis, Anno Regni 19. & aliam Medietatem ad Pasche Anno Regni nostri 20. Ideo tibi præcipimus quod ad (a) Mandatum venerabilis Patris R. Cicestr. Episcopi Cancellarii nostri sine Dilatione Distringas omnes Milites & Libere Tenentes, Qui de eo Tenent per Servitium Militare in Balliva tua ad reddendum ei de singulis Feodis & Wardis Duas Marcas ad prædictum Auxilium nobis per manum suam reddendum in Terminis Prædictis. E

(a) He was to give this command as a Baron, not as Chancellor, as is evident by the foregoing Writ.

Sic scribitur pro aliis Episcopis, Abbatibus, Prioribus & Magnatibus. F

Who but this Writer and another Gentleman that sent him the Notion, will pretend to prove from these Records, that **Novum Feoffamentum** was nothing else but a Sub-Infeudation of Under or Mean Tenents in Military Service, by the *Tenents in Capite*? or that these Sub-Feudataries, or Tenents, ever sat and voted in the Common Council

Council of the Kingdom, and consented to these other Taxes? If I understand any thing, I think they prove the contrary.

A Thus much of Scutage, as it was an Aid or Tax imposed by common consent of the Kingdom. There was another Scutage which we may call Scutage Service; that is, Scutage which was paid by *Tenents in Capite*, when they went not out in any Expedition according to Summons, or staid at home by leave obtained of the King, in this case they paid Scutage according to the Duration of the Expedition, or as they could agree with the King. This was due to him by Custom, without Consent of the Common Council of the Kingdom, especially if he himself went in the Expedition.

Scutage-Service.

B And besides this, there was Scutage-Service due to the *Tenents in Capite*, from their Sub-Feudataries, or Under-Tenents if they were not with them when they served the King in Person; and this was levied only upon the King's Grant, and by his Writ, without any consent whatever: for this see the Answer, F. 117. A.&c. and it is further confirmed by the following Records.

C *Rex Vic. Northampt. Salutem, Scias, Quod Concessimus Dilecto & Fideli avunculo nostro W. Com. Surr. quod habeat Scutagium suum de Militibus suis qui de eo Tenent in Balliva tua pro exercitu nostro Wallie in quo nunc est per preceptum nostrum Scilicet de Scuto duas Marcas, & ideo tibi precipimus quod predictum Scutagium ei habere facias ut predictum est. T. R. &c. apud Winton, 19 die Aug.*

Cl. 7 Hen. 3.
M. 4. Dorf.
Anno Domini
1223.

Eodem modo scribitur Vic. Middlef. Lincol. Oxon, Wilts, Dorf. Somersf.

Eodem modo scribitur pro Hamone Pecher Vic. Cantabr. Norff. Suff. Lincol. Essex, Salop, Berks.

Ibidem.

D *Eodem modo scribitur pro N. de Bello Campo de Scutag. habend. Vic. Middlef. Rotel. Hertford, Surr. Bedf. Bucks, Hunting. Berks; and for above thirty more Earls, Barons, and Tenents in Capite, in that Membrane and Roll.*

Ibidem.

E There is in *Mat. Paris* a Relation of the Siege of Bedford-Castle, in the next year, the Eighth of this King, 1224. that clears the meaning of these Records beyond all doubt.

In Octavis Sancte Trinitatis Rex cum Archiepiscopis, Episcopis, Comit. Baronibus, & (a) aliis Multis Convenerunt ad Colloquium apud Northampt. de Regni Negotiis Tractaturi.

(a) The *alii* multi here were the Abbats, Prior., and *alii* qui de nobis Tenent in Capite, &c. Paris, fol. 320. n. 20. Ibid. n. 40. * See *Laisi* below.

F Sitting this Parliament or Colloquium, news was brought the King, that the Garison in Bedford Castle, had issued out as far as *Dunstable*, and taken *Hen. de Braybroke*, one of his Itinerant Justices, which was there hearing Causes, and carried him Prisoner into the Castle. *Questavit Rex Consilium a clero simul & * populo.* The King asked Advice of the Clergy and Laity what he should do, They all with one consent advised him immediately to lay aside all business, and march towards the Castle with sufficient force, and they all accompanied him; being come thither, the King demands the Castle, and his

Ibid. 311. 30. Justiciary Hen. de Braybroke, the Governor and Soldiers deny the King entrance into it, nor would they deliver the Justiciary: After some time the King forced the Castle, by the Assistance of the Earls, Barons, and *Tenents in Capite*, which were at this Colloquium; and then,

Ibid. 312.
lin. 3.
Populus &
Laici the same.
Ibid. lin. 5.

Regi pro maximis laboribus suis & Expensis, tam à Prelatis quam à Laicis concessum est per totam Angliam Carucagium, de qualibet Caruca duo solidi Argenti, Magnatibus item Rex concessit, Scutagium, viz. de quolibet Scuto duas Marcas sterlingorum, & sic omnes ad propria recesserunt.

The Prelates or Clergy and Laity granted to the King for his great Labour and Expences Carucage through all England of every Plough-land two Shillings of Silver.

* To be paid
by their Ten-
nants in Mil-
itary Service.

And the King also granted to the * Great Men *Scutage*, viz. of every Knights Fee two Marks Sterling, and so they all departed home; this fully explains the last Records,

P. 242.
Rot. Cl. 16.
Hen. 3. m. 2.
Dorſt

A Fortieth of their Moveables is Granted by the Archiepiscopi, Episcopi, Abbates, Priores, & Clerici terras habentes quæ ad Ecclesias suas non pertinent, Comites, Barones, Liberi Homines & villani de Regno nostro.

Ibid. P. 242.
* The word
used in the
Record, is
Auxilium.

So that 'tis plain here who made the Common Council of the Kingdom, and gave the * *Subsidies*. The Archbishops, Bishops, Abbats, Priors, inferior Landed Clergy-men, the Counts, Barons, Knights, Freemen, it being a Grant of Goods not laid upon Land; and that it may fully express the Parties to the Grant, the Record tells us there were the *Villani*, the Inhabitants of every *Villa*.

The *Clerici terras habentes, quæ ad Ecclesias suas non pertinent*. He calls inferior Landed Clergy-men: 'tis more than he can make out; They were such Clerks as had Mannors, and Free or Military Fees belonging to their Benefices, that held of the King *in Capite*, the Fee whereof was in the Crown, and not in the Church, and therefore did not belong to it; and these came as *Tenents in Capite*.

Fol. 377. n. 50.

But *Mat. Paris* tells us they were *Episcopi & aliarum Ecclesiarum Prelati*; Dignified Clergy-men that gave this Tax, his words are concerning this very Council. *Apud Lambetham Exaltatione Sanctæ Crucis, ad Colloquium coram Rege convenerunt Episcopi & aliarum Ecclesiarum Prelati cum Proceribus Regni, concessa est Regi Quadragesima pars Mobilium.*

See *Liberi Homines* in the
Glossary.

What the *Liberi Homines*, or Freemen were in this Record, we may easily guess from the other two Records of 19 Hen. 3. viz. Such of those *Omnes alii de Regno qui de nobis Tenent in Capite*, which were not *Milites*, in a strict sense, nor had receiv'd the Order of Knighthood; and the probability of this will seem greater when we come to the Record next cited by him about this very Matter.

The

The only Question will be about the **Villani**, and if they will not pass for the Inhabitants of such **Villa's** as held of the King in **Capite**, such as might be the Burgesses of *St. Albans*, and other *Burgi Domini Regis*, which are called *Villa's* in the Records; Then we must apply our selves to his next Record, which he cites, concerning a Tax of the thirtieth part laid upon Goods and Moveables about five years after.

A

Rex Vic. Kanc. Salutem, Scias quod cum in octavis Sancti Hillarii anno, &c. xxi. ad mandatum nostrum convenirent apud Westm. Archiepiscopi, Episcopi, Abbates, Priores, Com. & Barones totius Regni nostri, ut Tractatum haberent nobiscum de statu nostro & Regni nostri idem Archiepiscopi, Episcopi, Abbates, Priores & Clerici Terras habentes que ad Ecclesias suas non pertinent, Comites, Barones, Milites & Liberi Homines pro se & suis Villanis nobis concesserunt in auxilium tricessimam partem omnium Mobilium suorum, &c.

P. 243.
Cl. 2. H. 3.
m. 7. Dors.

B

From this Record we may observe, First, that the Kings Writ only issued to the Archbishops, Bishops, Abbats, Priors, Earls and Barons of the whole Kingdom.

Tenents in Capite granted for their Villanes.

C

Secondly, That in the Granting of this Tax, the Sheriff is told in the first place, that the Archbishops, Bishops, Abbats, Priors, and the Clerks which had Lands that belonged not to their Churches, (a certain sign they Granted by themselves, and of nothing else) and then, that the Earls, Barons, Knights, and Freemen, for themselves and **Villanes**, a thirtieth part of all their Moveables.

D

From this Record 'tis manifest, the **Liberi Homines** had **Villanes**, if not **Bondmen**, *Villagers* or *Rusticks*, *Coloni* or *Husbandmen* at least; of whose Estates by publick Assent, and for publick Benefit they might in part dispose of, which **Liberi Homines**, according to the Tenor of all Records and History, were *Tenents in Capite*; and that the **Villanes** mentioned in the other Records, 16 *Hen. 3.* to have given a fortieth part of their Moveables, did Grant it by their Lords, that is, their Lords Paramount, that were *Tenents in Capite*, did Grant it for them, although they held it not immediately of them, but of other *Tenents in Military Service*, which immediately held of the *Tenents in Capite*, who did charge them by publick Taxes,

E

as hath been shewn from Records, and consequently all under them.

It was frequent in these times, to signifie to the Sheriffs, and to declare in the same Grants, that such and such had granted a Tax (*Concesserunt*) that is by those then that had Power and Authority to do it for them, and without their consent too, when they themselves for whom they granted, were not capable by our Writers own Confession and manifest Reason, of being Members of the Common-Council of the Kingdom, as Tradesmen, Servants, Bondmen, or Villanes, Women, Monied-Men that had no Freehold Estates.

F

'Tis said in *Pat. 15 Hen. 3. m. 3.* That the Abbats, Abbesses, Priors and Prioresses, which held of the King in *Capite*, **Concesserunt**, the word used in the Records, cited for the Grant of Villanes, and yet I believe the Writer will not say, that Women since the Conquest

Conquest at least, were Members of the Common-Councils of the Kingdom.

Rot. Pat. 48.
H. 3. m. 2.
n. 5.

*Venerabilis Pater G. Eborac. Archiep. Angliæ Primas & alii Prelati, Magnates, Libere Tenentes, & omnes alii de Regno nostro servitium fecerunt, & subsidium, ultra quam temporibus retroactis in aliis submo-
nitionibus exercitus nostri facere consueverunt.*

A

It seems by this Record, that all Men of the Nation were bound to the Service and Subsidy therein mentioned; but I believe no Man of Sense will understand it so.

It is said in the Confirmation of **Magna Charta**, 28 of Edw. 1. That *Omnes de Regno nostro dederunt nobis, Quintodecimam partem omnium Mobilium suorum.* All Men of the Kingdom gave a Fifteenth of all their Moveables: Can any man believe, that all the Men of England were there in the Colloquium, when Henry the Third re-granted King John's Charter? or that all Men of the Kingdom met to choose their Representatives? All the men of England are not personally present in this great Assembly at this day, nor do the tenth part of them meet to choose their Representatives.

B

Pat. 7. E. 2. p. 1. m. 3. cedul.

C

Rex Militibus Liberis Hominibus & toti Communitati Com. Mid. tam infra libertates quam extra salutem. Cum Comites, Barones, Milites, Liberi Homines, ac Communitates Comitatum Regni nostri vicissimam omnium bonorum suorum mobilium. Civesque & Burgenses ac Communitates omnium Civitatum & Burgorum ejusdem Regni quintam decimam bonorum suorum mobilium nobis curialiter concesserint & grante, &c. T. R. apud Westm. vicessimo octavo die Novembr.

D

The like Writ in the same words was directed *Civibus, probis Homi-
nibus, & Toti Comunitati Civitatis London, T. R. apud Dover xv.
Die Decembris.*

This was a Parliament, as at this day, consisting of the Lords Spi-
ritual and Temporal, and Commons; that is, of Knights of Shires, Citizens and Burgeses, and no others, and yet here 'tis said, that the *Liberi Homines*, the *Tenents in Capite*, and the Community, or Body of all the Counties of the Kingdom, and the Citizens and Burgeses, and Communities of the Cities and Burghs gave a fifteenth of all their Moveables; will any man think or believe, that the Body of every County, besides the Knights of Shires, and the Community or Body of every City and Burgh in England, besides the Citizens and Burgeses that served for them in this Parliament, were present there, and granted for themselves? where should this incredible vast number of People meet? who should be their Speaker, and collect their Votes? the word in the Record is **Concesserunt**, which answers to them all, and yet no body can suppose them all present, though 'tis said in the Record, they all granted this Tax.

E

F

There

There can then be no other sense put upon the words, *Uillani concesserunt*, than that they granted by their Lords, the *Tenents in Capite*, if it will not be admitted that they were the *Uillani* or Inhabitants of those *Villa's* or Burghs that held of the King in *Capite*.

In Page 243. Our Writer cites part of a French Record out of the *Pat. Roll*. 24 Hen. 3. when there is no Patent Roll that year, and glosseth upon it as followeth.

P. 243.

This agrees with what was done afterwards, in the 42 of this King, and it seems by this, that even in the 24. *par le Commune de nostre Royaume*; By the whole Realm, or great Council, the King had a special Council assigned, which was to have an extraordinary Power.

P. 243.

He is very free to take notice of what was done in the 42 of Hen. 3. and to that end cites two Records, 42 Hen. 3. m. 3, and 4. the last is a French Record, of which there hath been occasion to speak before in these Animadversions, and the tendency and design of the other may be seen in the Answer, p. 199, &c. they both relate to the *Oxford Provisions* there specified.

P. 244.

Page 248, 249. Our Writers cites this Passage in *Camden's Britannia*, Fol. 122. *Ad summum Honorem pervenit*, speaking of the word *Baro*. *Ex quo Rex Henricus ex tanta multitudine, quæ seditiosa & Turbulenta fuit, optimos quosque Rescripto ad Comitata Parliamentaria evocaverit, ille enim (ex satis antiquo Authore loquor) post magnas perturbationes, & enormes vexationes inter ipsum Regem, & Simonem de Monte-forti, & alios Barones motas, & sopitas, Statuit, & ordinabit, quod omnes illi Comites, & Barones, Regni Angliæ, quibus ipse Rex dignatus est Brevia summonitionis dirigere, venirent ad Parlamentum suum & non alii, nisi forte Dominus Rex alia illa Brevia dirigere voluisset.*

P. 249.

The substance of this is, saith our Writer, that the word *Baro* was applicable to the whole People, the Body of Freeholders, especially such as assembled in Parlement, till the King conferred particular Honor upon some, by his special Writs of Summons, and none other came, but in pursuance of the *alia illa Brevia*, that is, the Writs for Elections in Counties, Cities, and Burghs.

The Learned *Camden*, while he is taking notice of the various acceptance of the word *Baro*, says, *In Chartis & Historiis ejus sæculi omnes fere Nobiles dicantur Barones, plenaque Honoris Appellatio illa sane tunc erat, & nomine Baronagii Angliæ, omnes Superiores quodammodo Regni ordines, scilicet Duces, Marchiones, Comites & Barones continebantur.* This our Writer left out, lest it should have turned the Substance he gives, of what he cited, viz. That the word *Baro* was applicable to the whole People, the Body of the Freeholders, into a shadow; what man, that designed not Sedition, or was not confident beyond belief, could have made such a Gloss upon those words in *Camden* which follow, and are the very next to these last noted. *Sed ad summum Honorem pervenit, ex quo Henricus tertius, ex tanta multitudine, quæ seditiosa & turbulenta fuit, optimos quosque Rescripto ad Comitata Parliamentaria evocaverit, ille enim*

enim

enim (ex satis antiquo scriptore laquor) post magnas perturbationes, & enormes vexationes, inter ipsum Regem & Simonem de Monteforti & alios Barones, motas & sopitas, statuit & ordinavit, quod omnes illi Comites & Barones Regni Anglia quibus ipse Rex dignatus est Brevia summonitionis dirigere venirent ad Parliamentum suum, & non alii: nisi forte Dominus Rex alia illa Brevia eis dirigere voluisset.

The word *Ei* he hath left out, which discovers to whom these Writs were to be directed.

That is, in the Charters and Histories of those times, almost all the **Noblemen** were called **Barons**; and it was then an Appellation full of Honor, or a name of great Extent: and under the name of **Baronage of England**, all **Superior Orders** as it were of the Kingdom; that is to say, **Dukes, Marqueses, Earls and Barons** were contained. But it became a word of **Highest Honor**, since **Henry the Third** out of so great a Multitude, which was **Seditious and Turbulent**, called the **Chiefest or Greatest** of them, by his **Writ** to Parliament: For he, (I speak it out of a Writer ancient enough, says *Camden*) after great Troubles and enormous Vexations, raised between the King, *Simon Montfort*, and other **Barons**, when they were overcome and quieted; appointed and ordained, that all those **Earls and Barons** of the Kingdom of *England*, to whom he thought fit to direct Writs of Summons, should come to his Parlemtent, and no others; unless by chance the King would direct other such Writs to them. That is **Writs** of the like Form and Tenor.

And the Practice was then, and hath been ever since, accordingly; the King only calling the great Barons, to sit as Barons by his Writ, (though in those times probably, the King might omit to Summon whom he would) and if at any time he called any others by those his *Alia illa Brevia*, his such other Writs as had been directed to the Earls and great Barons, they were *pares Baronum*, the *autres Grands & Nobles*, the **Proceres & Magnates**, besides the Earls and Barons mentioned in the Writs of Summons to Parlemtent, 18 Ed. 1. 22 Ed. 1. M. 6. Dorf. 28 Ed. 1. M. 3. Dorf. here Printed at the end of the Answer to Mr. *Petit*, and in many other places in the old Parlemtent Rolls and Summons in the Reigns of *Edward* the Second and Third; and though some of them were often summoned, and their Heirs after them, yet were they no Barons, the Writs of Summons not making them such, according to the Vulgar Error. Nor can any man but an Ignorant Selfconceited Scribler, think or Fancy, that the *Alia illa Brevia*, the other same Writs were directed of course to any County, Cities or Burghs at that time, or according to the meaning of this Relation, for Mr. *Camden's* Author says, *Nisi forte Dominus Rex Alia illa Brevia*, unless casually or by chance, or sometimes, other of them same very Writs, and of the same Form, which had issued to the **Earls and Barons**, were directed to any others. And to make it clear, without contradiction, those *Alia illa Brevia*, which were directed to the **Noblemen** were of a different Form, those for electing of Knights, Citizens and Burgeses, which were always directed to the Sheriffs of Counties, not *Eis* (which word is left out by this Writer) to the **Parties** themselves.

P. 248, 249.
Britan.

Page 248. and 249. Our Writer cites a Passage in *Camden*, fol. 122. and thus Comments upon it.

The

The substance of this is, That the word Baro was applicable to the whole People, the Body of Freeholders especially, as Assembled in Parliament, till the King conferred particular Honor upon some, by his Especial Writs of Summons, and none other came, but in the pursuance of the *alia illa Brevia*, that is the Writs for Election in Counties, Cities and Boroughs, this was begun to prevent those Tumults, of which both the King and the Barons had fatal Experience.

P. 249.

A The Probi Homines, or *Bona Conversatio*, came sometimes in their own Persons; and when they agreed to it, which was no Abridgement of their Personal Right, they came by Representation Ex Electione, and every one was there himself virtually, by his Deputy, but they often met in vast Bodies, and in Capacious Places, both in the Saxons Times, and after William the first obtained the Imperial Crown.

P. 264.

B This is precariously said without any Foundation or Authority; yet he seems to back it with an Instance.

The whole Body of Proprietors, he says, were assembled at *Rune-*
mede between *Stanes* and *Windsor*, at the passing of King John's Charter.

Ibid. P. 264.

C What this Assembly was, and of whom it consisted, see the Answer, f. 71. E. f. 72. A.

Anselm, in one of his Disputes with Henry the First, desires the Debate may be adjourned till the Easter following. He comes to the Court at Easter; Igitur in Pascha Curiam venit, regni ingenuitatem præfens Consultit. Communis Concilii vocem accepit, &c.

P. 265.
Eadmer. Hist.
Nov. fol. 76.

D Here the Council Episcoporum & Primatum, to which he referred himself, was reciprocal with the Ingenuitas Regni; that is, as Sir Henry Spelman shews us, the Liberi & Legales Homines, The good honest Freeholders, some of which were no better than Plebeians.

Ibid. P. 265.

Sir Henry Spelman is not very Elaborate in Expounding the word *Ingenuus*, and says that some Moderns have used to exprels our *Tecmen* and *Plebeians* by it; but whether properly, or like *Latinists*, he did not know.

E The word amongst the Romans signified the same as Free-born amongst us. *Hottoman* says, that *Ingenui* were the same that *Patritii*, who were no common ordinary Men. And *Calvin*, *Ingenuus est cui ex Nativitate Competit Libertas, qui non est factus Liber, sed Natus. Erat igitur Ingenuus quem nos hodie gentilem vocamus, Gentiles sunt qui inter se eodem nomine sunt, Quorum Majorum nemo servitutem servivit, qui Capite non sunt Diminuti, ut Brutus, ut Scipiones.* And so proceeds from the Authority of *Cicero*, *Pliny*, *Budaus*, *Boetius*, *Livy*, and others, to make them *Nobiles*.

Lexic. Jurid.

And in this sense or the like, his Author *Eadmer* more than once useth this word. King Henry the First wrote to *Anselm* to respite the Consecration of *Thomas* Archbishop Elect of *Tork* for some time; and said, he himself when he came into *England*, would compose all

D d

Differences

Eadmer, f. 101.
lin. 49.

Differences between them relating to the Consecration. *Anselm* sends the Dean of *Chichester*, and a Monk of the Abby of *Bec.* into *Normandy* to the King, to acquaint him with the State of the present Difference between them, and to beseech him, *Quatenus sua Auctoritatis Ingenuitate, & provisione satageret, ne Integritas Christianitatis in duo Divisa scinderetur in Anglia.*

Certainly *Auctoritatis Ingenuitas* doth not here signifie a *Plebeian* or ordinary Authority, but a *Royal, Noble, and great Authority*, by which he was to interpose, and over-rule the Differences between both these great Prelates. A

Ibid. f. 117.
lin. 39.

In another place speaking of *William* Son to King *Henry* the First, he hath these words, *Willielmum, Quem ex Ingenua Conjuge sua filium susceperat, heredem Regni Substituere sibi volebat.*

It cannot be said that *Maud*, Queen to *Henry* the First, the Daughter of *Malcolm* the Third late King, and Sister to *Edgar* the then present King of *Scotland*, was a *Plebeian*, or an ordinary Woman; the least then that *Ingenua* as an *Epithet* joyned with *Conjuge*, can signifie in this place Must be, *Noble, or Great*; and that King *Henry* had his Son *William* by his *Noble, Great, or Illustrious* Wife, &c. B

Monastic. Anglican. vol. 1.
f. 786. col. 1.
n. 60.

In the History of the Founders of *Ford* Abby in *Dorsetshire*, there are these Passages. *Fuit autem Reginaldus de Courtenay filius Domini Flori, Filii Regis Francie Ludovici, cognomento Grossi, ac etiam Hawisia Vicecomitissa, uxor ejus secunda, de sanguine Regio Anglicano, ex parte Domina Albreda, neptis Regis Willielmi Bastardi, Matris Avia sua Domina Adelia Vicecomitissa, generosa exorta. Tota ergo illorum posteritas, Reginaldi, videlicet, & Hawisie tam ex Patre, quam ex Matre, de Regio Semine prodiit, ac Tribus Regia Francie, pariter & Anglia, in eis mixta fuit, sic sanguis eorum mere fit Ingenuus & precipue generosus.* C

Ibid. f. 787.
col. 1. n. 30.

Robert the Son of this *Reginald* and *Hawisia*, or *Avis* after his Death had this Epitaph ingraven upon a *Pyramidal Pillar*.

Hic jacet Ingenui de Courtney, gleba, Roberti Militis Egregii, virtutum laude referti, Quem genuit Strenuus Reginaldus Courtinienfis, Qui Procer Eximius, fuerat tunc Devonienfis. D

Dugd. Baron. Tom. 1.
fol. 639 col. 2.

Monast. Angl. vol. 1. fol. 789.
col. 2. n. 30, 40.

Hugh Courtney Earl of *Devonshire*, who died 51 Ed. 3. married *Margaret* the Daughter of *Humphry de Bohun* Earl of *Hereford*; of her it is said, *Hac Margareta Matrem habuit Ingenuam, Dominam Elizabetham, Illustrissimi Principis & Regis incliti Edw. post Conquestum Anglie primi filiam, &c. per quam contigit posteritatem Courtneis Regio sanguine Anglico iterum Renovari ex ea provinientem, Ingenuitas enim hujus Domina Margaretæ neptis Regis Anglie, quæ fuit filia filia Regis Edwardi egregii, Equipollet generositati Reginaldi de Courtney supradicti, qui fuit filius Domini Flori filii Regis Francie Grossi Ludovici, & sic generositas de Courtneis recentiori Ingenuitate sublimatur, &c.* E

Præcipui F

Præcipui Proceres Normanniæ, Gualterius Giffard, Gulielmus Bitolientis, & Radulfus de Conch. & defuncti sunt. Walter Giffard Earl of Buckingham died in England, and as he had directed, was carried into Normandy, and buried in St. Maries Church Porch at Longaville, upon whom was written this Epitaph.

Order. Vital.
f. 802. C. D.

A *Stemma Giffardorum, Galterius Ingenuorum,
Quæ meruit vivens, Busta Sepultus habet, &c.*

This *Walter Giffard* came into *England* with the Conqueror, and was with him at the *Battle of Hastings*; He was Son of *Osborn de Bolebec*, and *Avelin* his Wife, Sister to *Gunnora* Dutcheß of *Normandy*, and Great Grand-Mother to the Conqueror; and therefore must be many Degrees above the ordinary *Plebeian* Ingenuity.

Gul. Pictav.
f. 202. D.
Gul. Gemet.
lib. 8. c. 37.

B Upon Consideration of the antient import of the word *Ingenuus* among the best *Roman Authors*, and the signification and sense that our Writer's own Author *Eadmer*, and other old Historians and Authors used both that and *Ingenuitas* in; no Man can think but that by *Ingenuitas Regni*, he meant *Nobiles*, or *Magnates Regni*, or at least the *Liberi Homines Regni*, which when-ever mentioned in respect to Great Councils, and their being there, are all the same Persons.

See *Liberi Homines* in the *Glossary*.

C And therefore because Sir *Henry Spelman* in his Exposition of the word *Ingenuus*, seems not to favour his Notion of it; and in his discourse upon the word *Parliament*, doth disallow his Whimsies and Apprehensions concerning the antient Constitution of it, he says, that he or they who put out the Second Part of Sir *Henry Spelman's* Glossary, did not do right to his Memory, in representing him affirming, That the *Plebs*, the *Ingenuitas*, or *Liberi & Legales Homines*, as he himself tells us the word *Ingenuus*, has anciently been used, are no where amongst the several Councils which he had read of, mentioned to have been there, from the entrance of *William the First*, to the end of *Henry the Third*.

P. 265.

D Indeed notice being taken of those Councils where were *Optimates* and *Barones totius Angliæ*, and of that famous Assembly at *Salisbury-Plain* of the Barons and *Viccomites*, cum suis *Militibus*, in pursuance of the Summons of *William the First*. The Positiveness of the Assertion, (that is, of Sir *Henry Spelman's* Assertion) That the *Plebs* were not in the antient Councils until the end of *Henry the Third's* Reign, is restrained with a *Ni* in his *Diliterit*.

P. 265.
Sir *Hen. Spelman* doth not say so, he only says the *Moderns* did now so use the word, but whether rightly or not, he could not tell. *Vid. Verbum Ingenuus*, in his *Glossar*.
P. 266.

E This *Ni* in his *Diliterit* is Ironically spoken; for he says just before, *Ludunt qui Parliamenta nostra in his Quarunt*, just when he had mentioned this Assembly at *Salisbury-Plain*, and some others such like before it.

F He lays the stress upon some words of *Simon of Durham's* Relation of this Convention, who Transcribed the very words out of *Florence of Worcester*, which are truly recited by this Writer, Page 51. and are these.

William I.
Anno Dom.
1086.

Nec multo post Mandavit ut Archiepiscopi, Episcopi, Abbat. Comitibus & Barones, Vicecomites, cum suis Militibus, die Kalend. August. sibi occurrerent Sarisberie, Quo cum venissent Milites illorum sibi Fidelitatem contra omnes homines jurare Cogit.

P. 52.

Here I take it (says he) *Milites illorum*, refers to the Knights of the Sheriffs, that is, the Freeholders. And in Page 50 he tells us, The King gave Arms in his Court to the Great Men, and immediate Tenents. The common Freeholders received them in the County-Court.

To let this idle Invention pass, of the common Freeholders being Knighted in the County-Court, which never entred into any Manshead but his own, if he had understood the construction of the words, he could never have said that *Milites illorum* had referred to the *Milites* of the Vicounts or Sheriffs only. The Sentence runs thus, *Quo cum venissent, Milites illorum*; who came to Salisbury? The Sheriffs only? If the Archbishops, Bishops, Abbats, Earls and Barons came thither, as there can be no doubt but they did, then *Milites illorum* refers as well to them as to the Sheriffs, for they were the *Military Tenents* of them that came to Salisbury, which the Conqueror compelled to Swear Fealty to him against all Men. Nor were these *Vicecomites* such ordinary Men, as for some hundred of years last past have been Sheriffs, but they were Great Men, *Pares Comitum*, not Officers under them, but such as governed the Counties for the King, *Vice-Comitum*, instead of an Earl, where an Earl had not the Government of it, and were *Tenents in Capite*, and perhaps Proprietors of as many Knights Fees, as some of the Earls.

Such another Assembly as this there was in the same place, when King Henry the First made all the *Military Tenents* of England and Normandy do Homage, and swear Fealty to his Son William at twelve years of age.

Malmsbur.
fol. 93. a. n.

Filium habuit Rex Hen. ex Matilda nomine Willielm. dulci spe, & ingenti Cura in Successionem Educatum & proVectum, nam & ei vix dum 12 annorum esset omnes liberi homines Anglie & Normannie cujusque ordinis, & Dignitatis, & cujuscunque Domini Fideles, Manibus & Sacramento se dedere coacti sunt. All the Freemen of England, that is, all the *Tenents in Knights Service*, of what Order or Dignity soever, or of what Lord soever they held, were compelled to do Homage and swear Fealty to him.

Fol. 117. n. 30.
16 H. I. 1116.

Eadmer relating this very action, tells who were the great *Liberi homines*: xii Kal. Aprilis, *Factus est Convectus Episcoporum, Abbatum, & Principum totius Regni apud Serberiam, Cogente eos illuc Sanctione Regis Hen. I. &c.* and then agnita Regis voluntate omnes principes facti sunt homines Willielmi Fide & Sacramento Confirmati; and so Florence of Worcester.

Here are the Men and Work of this Assembly, and by neither it can be made out, that these were the Common Freeholders, as at this day, or the Sheriffs Knights, as he calls them, or that this was a Common Council of the Kingdom: for though the same Persons that constituted that, were here, and Thousands more, yet the Business

ness was no Common-Council Business, and the cause of the meeting according to the Summons, was only to take the Oath of Allegiance, and swear Fealty.

Vid. Spelm.
Glossar. f. 45 r.
col. 2.

Having given an Account of the Assembly at **Salisbury**, and the meaning of the words *Vicecomites cum suis Militibus*, we shall take notice of what our Writer says concerning Sir Henry Spelman and his Glossary.

A

Who if he had lived (he says) to have finished the Second Part, would certainly have given a Compleat Body of Antiquity. And Page 265. he tells us again, That he was convinced from Sir Henry Spelman's Interpretation of the word Ingenuus, (of which enough is said before) That he or they who put out the Second Part of Sir Henry Spelman's Glossary, did not do right to his Memory. But the true Reason of such

P. 219.

P. 265.

B

his thoughts (as is before hinted) was, because he did not accord with him in his Opinion of the Members of the Great or General Councils of the Kingdom.

And indeed as he deals with Sir Henry Spelman's Glossary, in saying the Second Part was not his own, so he doth shuffle off all Records and Histories which are directly against him, by saying the *Curia*, or Great Councils there mentioned, were but an ordinary *Curia* or Council, and such as in his own Judgment contain any thing that makes for him, the Councils there spoken of, are Great and General Councils to be sure.

C

But to return to the Glossary, the First Part whereof to the Letter N: was published in the year 1626: the whole being then finished, and offered by Sir Henry Spelman to Mr. Bill the King's Printer, for the value of Five Pounds in Books only: But he refusing to give him that small Rate for the Copy, he ventured to Print the First Part of it at his own charge, and most of the Books lay upon his hands until the later end of the Year 1637. when Mr. Stephens and Mr. Meredith (Booksellers in St. Paul's Church-yard) took them off. The next year, viz. 1638. Sir William Dugdale being with Sir Henry Spelman, and telling him, that many Learned Men were very desirous to see the remaining Part of that Work, Sir Henry then told him what is here related, and produced both Parts of the Glossary, the first whereof was Printed, and inter-leaved with Blank Leaves, as also was the second, which was Manuscript, wherein he had added and altered much.

D

E

F

After His Majesties Restauration, the Earl of Clarendon then Lord Chancellor, and Doctor Sheldon then Bishop of London, inquired of Sir William Dugdale what was become of the remaining part of the Glossary, or whether ever it was finished? He told them it was finished, and in the hands of Mr. Charles Spelman, Grandchild to Sir Henry, and youngest Son to Sir John. Whereupon they desired Sir William to move him to Print it; which he did: but finding that the Booksellers would give nothing for the Copy, and that he was not able to Print it at his own charge, and returning this answer to the Lord Chancellor and Bishop of London, they contributed liberally themselves, and procuring many Subscriptions to that purpose,

An Account
of the Second
Part of Sir
Hen. Spelman's
Glossary.

desired Sir *William Dugdale* to receive the Money, and deal with a Printer to perform the Work: which he did, and caused it to be Printed as he received it, all under the proper hand-writing of Sir *Henry Spelman*, without Alteration or Addition. And had it not been for the Dreadful Fire in *London*, wherein both the Copy and the greatest part of the Impression were consumed, it might at this day have been produced to have confirmed what is here reported. For the truth whereof Sir *William Dugdale*, a Person of great Learning, Worth, and Integrity, and now a Living Testimony without exception, may be consulted, if any Man doubts what is here delivered. A

By this Narrative it is evident that the Second Part of the *Glossary* was the true, genuine, and proper Work of Sir *Henry Spelman*; and therefore I shall here Publish his Discourse upon the word *Parliament*, as stating and giving much light to the determining of this Controversie. B

C

D

Parla.

E

F

Parlamentum, al. Parliamentum, & Parlemen^{tu}m.] A. Gall. Parler, i. loqui, *Colloquium* appellabant veteres, & est solenne *Colloquium* omnium *Ordinum* Regni, *Authoritate* solius Regis, ad *consulendum Statuendumque*, de negotiis Regni *indictum*. Hæc Augusta vocis significatio, humiliores recipit.

Ex Glossar.
Spelman,
p. 449.

A *Parliamentum* dixere Croylandenses Cœnobitæ sub temporibus Willielmi II. & Ingulphi Abbatis suas de rebus sui Monasterii *Consultationes*, ut testatur codex illic antique M. S. fol. 89. Et suas utique nostri hodie Jurisconsulti in Hospitus fori, ut notissimum est.

Croylandensis libri hæc sunt verba----Concessimus etiam tunc Serjentium nostræ Ecclesiæ *Semanno de Lek*; qui veniens coram Conventu, in nostro *publico Parlamento*, similiter juramentum præstitit, quod fidus & fidelis nobis existeret & Officiū, &c. E quibus innuit privatas etiam Consultationes, dici Parliamenta, nam hoc publicum vocant. *Albertus Argentinus* vocem intelligit de omni concessu, etiam *Militari*: sic enim ille sub An. 1218. Cum olim (inquit) *Milites Basilienses* ad Torneamenta, hastiludia, & *Parlamenta* alia cum multitudine egredirentur, &c.

C Et in antiquis scriptis Prædialibus occurrit mihi aliquando *Parliament Hill*, id est, Collis *Parlamentarius*, quod (ut reor) convenire hic olim solebant *Pagenses* aliquot, ad causas inter vicinos dirimendas; prout in Hibernia frequentes vidimus *the Parle and Parlinge Hills* nuncupatus.

D Reperitur (fateor) vox antique in Canuti legibus; sed è recentiore Interprete Anglo-Normanno, Latine data: *Danis* enim & *Saxonibus* peregrina vox.

E Magni hujus Concilii *Specimen* inter *Normannos*, *Saxones*, *Britannos* quærunt Philologi. *Britannos* lepide ex illo Cæsaris, Lib. 5. Summa Imperii Bellique administrandi Communi Concilio permessa est Cassivilano, p. 87. Quid *Castrense* hoc *Consilium* ad *Civile* nostrum? Quid *confœderatarum copiarum* adversus hostem communem coactum confugium, ad *Ordinum* Regni solennes concessus? Audi Tacitum de *Britannis*---Olim Regibus parebant; nunc per Principes factionibus & studiis trahuntur; nec aliud adversus validissimas gentes pro nobis utilius, quam quod in commune non consulunt. *Rarus duabus tribusque Civitatibus* ad propulsandum commune particulum, *conventus*; ita dum singuli pugnant, universi vincuntur.

F In vita Agric. p. 142. Vides in hisce Consiliis nec Regis adesse præsentiam, nec auctoritatem: & convenire rarius duas vel tres Civitates, fœminasque ut appareat veterum Germanorum & Lacedæmoniorum ritu non exclusas; Nam in Imperiis (inquit idem Tacitus) sexum non discernunt, sic Voadicea Icenorum nostrorum furens *Penthesilea*, quæ---Romanos uno prælio peremit, belli administrat Imperium. Hæc de Britannorum Conciliis.

Saxonum mos, & Germanorum cognoscitur. ----De minoribus rebus (inquit Tacitus) **Principes** consultant, de majoribus omnes. Ita tamen ut ea quoque quorum penes plebem arbitrium est, apud **Principes** prætulerentur. Res minores, exponunt causas privatas & ad forum pertinentes, majores publicas. In celebrandis hisce Conciliis, non coeunt nisi Luna novâ vel plenâ; nec indicto die (ne non liberi viderentur) sed vel altero, vel tertio: Considunt armati, concionemque & silentium moderantibus **Sacerdotibus**, audiuntur vel Rex vel Princeps; vel prout cuique aetas, nobilitas, vel facundia, suadentes autem, non jubentes. In ferendis suffragiis, fremitu aspernunt quod displicet; & frumentum concussu laudant, quod placet. Sic Germani veteres in Germaniâ, apud Tacitum; & Britaniam advecti, patrios sine dubio ritus una advehunt, sed fide imbuti Christianâ, rigidiores sensim depouunt, & Christianorum induunt.

Conciliorum igitur duo posthac genera: Ecclesiasticum quod ab Apostolis institutum, expediunt jam **Archiepiscopi, Episcopi, Abbates, Clerus**; Præsentibus etiam sæpius ipso Rege, cum **Magnatibus populi**que Senioribus: sed de hoc non hic locus. Seculare, cui post Regem aderant Prælati antedicti & **Aldermanni** (alias Seniores atque **Sapientes Regni**) hoc est **Duces, Comites, Proceres & Magistratus** nonnulli, ut in voce **Aldermannus**, explicavimus.

Inas Rex Occidentalium Saxonum, qui floruit An. 712. *leges suas condidit*, ut ipse loquitur **mid Gerheabr, & mid lere Cenredes Dines Fedet, &c.** Consilio (inquit) & documento **Cenredi** patris mei, **Hedda, & Erkenwoldi** Episcoporum meorum, omniumque **Aldermannorum** meorum, & seniorum **Sapientum** populi mei, magna etiam servorum Dei frequentia: sufficit hoc unum exemplum ad modum exprimendum omnium Conciliorum Anglo-Saxonum: Etiam licet nec in eisdem Episcoporum fiat mentio; nec **Aldermannorum**. Juxta enim seculi illius usum, comprehendi plerumque solent, vel in præfatione legum, vel in contextu, **Sapientum** vocabulo: Et hoc quidem desiderato, præsentibus tamen intelliguntur omnes, ut ex **Æthelstani** legibus observatur, qui in Ecclesiasticis illic constitutionibus usum se refert, **Episcoporum** consilio, in secularibus vero edendis, nec secularium meminit, nec **Episcoporum**: Interfuisse, tamen utroque constat è subscriptione quadam dicente. **Calle ibis was geleset on tham miclan Synod, &c.** Decreta sunt hæc omnia in magna Synodo **Gratianâ**, cui Aderat **Wilhelmus** Archiepiscopus, & cum eo **Nobiles** omnes & **Sapientes** ab **Æthelstano** congregati.

Sed ut uberius dicam de personis in istiusmodi Concilio convocatis, occurrit primo nusquam me reperisse inter **Saxones** nostros **Plebi** locum cui in Germania **Tacitus** potiorum tribuit. Qui in Ina Regis Concilio memorantur, sunt ut vides **Episcopi, Aldermanni, Seniores, sapientes Populi, & Servi Dei** de **Episcopis**, satis notum. **Aldermanni** vox adeo generalis est, ut omnes comprehendat, qui vel dignitate præsunt vel officio: **Regulos, Subregulos, Principes, Duces, Comites & Magistratus** quoslibet, ut in voce **Aldermannus** enarravimus.

Hoc autem loco de Comitibus intelligo & toparchis, quod prætereant, numerat **Seniores Sapientes Populi**; qui Latine idem sunt quod **Aldermanni** Saxonice.

Seniores

Seniores Sapientes Populi, idem est Latine quod Aldermanni Sax-
onice, ut in verbo *Senior* referemus. Qui vero appellantur *Servi Dei*,
strictius ego intelligo de Ecclesiasticis, qui sub hisce seculis, peculiari
isto gestiebant nomine eodemque veniunt in condendis Æthelstani
legibus Ecclesiasticis, Cap. 3. Viris non tum consultis secularibus:
Et in Synodali Conciliabulo *Clotshovia*, Ann. Dom. DCCCXXIV.
A explicite ponuntur, *Dei Servi*, Presbyteri, Diaconi, Monachi. Ad
hæc quæ diximus fidem faciunt Conciliorum plurium M. S. Charta-
rumque in eisdem Confirmatarum subscriptiones: in quibus præter
Regem, & interdum Reginam, has invenimus: Ex parte Ecclesiasticâ,
passim Archiepiscopos, Episcopos, Abbates; nonnunquam Abba-
tissas, Presbyteros, Monachos. Didascalum, Dogmatistam. Ex
parte laicâ, Regulos, Subregulos, Principes, Patricios, Alderman-
nos, Hertogenas, qui & alias Duces, alias Comites, Præfectos &
interdum ditionis alicujus, putâ Mercîæ, Hlafordas, (i. Dominos)
B Thanos etiam, qui & Ministros. Continentur hi quidem omnes
(ni *Thanum* excipias) sub Aldermannorum nomine, ut supra dixi-
mus; & qui in una Charta Aldermannus scribitur in alia *Hertogin*,
in alia *Dux*, in aliâ *Comes* appellatur. Sic *Ælfherus* in Chartis
Wigornensibus.

Excedo tenebris in crepusculum, sed lux adhuc malefida, *Guliel-*
mus I. qui a *conquirendo*, hoc est *acquirendo* Angliam, non a *subigendo*
C (ut plerique censent) dictus est *Conquestor*, *terram totam inter Mag-*
nates suos sic disposuit, ut suum quisque *Patrimonium de Rege teneret*
in Capite, per servitium plerumque Baronie. Hinc *Magnates*, *Barones*
Regis, & *Barones Regni* nuncupantur, Regni etiam *Capitanei*, quod
in Capite, id est, a Rege *teneret*, & in librum *Domesdei* conscribuntur
singuli; Patrimonia sua (Reservata ad alendum sui ipsius familiam,
splendida portione) suis quisque clientibus (quos vulgo Milites
vocant) feodorum nomine dispartitur, & hi vicissim inter *Tenentes*
D suos & Colonos. Sic pars nulla Regni vel agrorum præter terras
ipsius Regis, & *quæ Deo data sunt in liberam eleemosynam*, quin alicui
Baronum erat subdita, cum è tenuræ ratione, tum & jurisdictionis
privilegio. Superior enim quisque Dominus, *Regulus agit*, in suos
Subditos, & in rebus ad feodum suum pertinentibus, *ex ipso jure*
feodali, jus dicit, quod de Germanis olim notavit Tacitus: *Agricolis*
(inquit) *suis jus dicunt*. Agricolas autem appellare censeo, qui
agrariis coercentur legibus & servitiis.

Is not this a
Mark and Ar-
gument of a
Victor.

E Mirum interea sub his seculis, *Dominorum in Vassallos Imperium*,
Vassallorum utique erga Dominos, *amor & obsequium*. Quod ex
pertinacia *Gerardi de Canvilla* dignoscatur, qui in magno Regni
Concilio Anno 5 Ric. I. Northamptoniæ, celebrato, læsæ Regiæ Ma-
jestatis postulatus, respondit: se esse hominem (i. e. *Vassallum feoda-*
lem) *Comitis Johannis*, & velle in *Curia sua* jure stare.

F Hinc *feodalis Domini* ex assensu feodaliū suorum *Vassallorum* (quos
Pares feodi vocant & *Pares Curia suæ*) leges ferebant, de rebus feodi
sui: Et *Superiores* quique de inferioribus.

Rex perinde qui totius Regni Dominus est supremus, regnumque
universum, tam in Personis Baronum suorum, quam è subditorum
ligeantiâ, ex jure Coronæ suæ subjectum habet *Consilio & assensu*
Baronum

Baronum suorum leges olim imposuit universo Regno; & consentire inferior quisque visus est, in persona Domini sui Capitalis, prout hodie, per Procuratores Comitatus vel Burgi, quos in Parliamentis Knights and Burgeses appellamus.

Lib. Ramcl.
109.

Convenire igitur solebant *Barones Regis*, prout opus, ter quotannis ad Aulam Regiam, id est, ad *Natale* Domini nostri, ad *Pascham*, & ad *Pentecostem*, prodireque tunc solebat Rex coronatus publicè, & cum *Baronibus* de Negotiis regni constituere. Sic *Canutus Rex* suas leges in Christi tulit Natalitiis. *Edmundus* in Paschatis festo, *Henricus I.* Anno 1108. in *Pentecostes*. Sed & aliis quoque temporibus, ut fuit opus.

A

Habes morem veterem, quem mutasse ferunt *Henricum I.* Anno Regni sui 16. *Plebe* ad *Concilium Saresberienſe* tunc accita. Hæc vulgaris opinio, quam typis primus sparſit, *Polydorus Virgilius*, acceptam Subſequentes Chronographi. Nos ad Authoris illius seculi provocamus & vicini. *Flor. Wigornensis* in An. Dom. 1116. (qui est 16 *Henrici I.*) ait, *Conventio Optimatum, & Baronum totius Angliæ apud Searesbiriæ* 14 Cal. Apr. facta est. *Eadmerus* de eodem ait 13 Kal. Apr. *Factus est Conventus Episcoporum, Abbatum, & Principum totius Regni apud Serberiam*, cogente eos illuc *Sanctione Regis*. Nichil hic de *Plebe*, nec in notis aliquibus aliis Authoribus vel illius seculi, vel alterius cujuscunque; qui tam insignis libertatis Privilegium, silentio (proculdubio) non transiissent. Enatum enim cum jam certo esset, passim prædicant inferiores.

B

Sed ad hoc reperitur audio nescio quid, in veteri quodam M. S. codice, Authoris, temporis, fidei incertæ---Communes (sic plebem vocant) tunc vocatos. Rem qui amplectuntur, ideo factam censent, ut *Rex* iste *Angligenus* *Anglos* sibi contra *Normannos maleficos* confirmaret.

D

Sed Vir acutissimus *Gualterus Raleigh* Lib. de Prærogativa Parliamentorum, *Angliæ* factum non opinatur ante 18 Hen. I. quod in Anno 17 Regni ejus, solius sui privati Concilii assensu, tributum imposuit in unamquamque Hydram, (seu Carucatum) terræ ad collocandam filiam suam in Matrimonio. Et de eodem ait *Huntingtonius*---*Geldis creberrimis & exactionibus variis Angliæ compressa est*. Ego *Anonymum* illum, eo reor deceptum, quod hoc Concilium coactum fuit ut ferunt (*Wigornensis & Eadmerus*) non consultandi gratia, vel statuendi, sed ut *Magnates Angliæ* fidelitatem præstarent & homagium *Gulielmo filio Regis*, quod Rex ipse dubios in *Normania* Casus subiturus esset.

E

Convocatos etiam ea Causa primores plebis verisimile est: nam submerso sub quinquennio postea *Gulielmo Principe*, *Episcopus Comitibus Barones*, & omnes qui alicujus videbantur esse momenti, (*Newbrigensis* verba sunt) *Londinum* vocat ad Concilium, fidem jam *Matildi filiæ suæ* juraturos.

F

Sic Concilium alterum habes illiusmodi, Parlamento nostro sat dissimile; Nam si pro Parliamentis hæc habueris, altiore rei dabit originem Conquestor ipse, qui Anno Regni sui 19 Dom. nostri 1086.

Mandavit

Mandavit ut Episcopi, Abbates, Comites, Barones, Vicecomites, cum suis Militibus (i. e. Tenentibus in feodo militari) die Kal. Aug. sibi occurrerent *Searesburie*. Quo cum venissent Milites illorum, sibi fidelitatem contra omnes homines jurare coegit. Flor. Wigorn. in hoc Anno. Ludunt qui Parliamenta nostra in his querunt.

A Sine ut Sodes dicam, collegisse me centenas (reor Conciliorum edictiones tenoresque ipsos plurimorum) ab ingressu *Gulielmi I.* ad excessum *Henrici III.* existentium, nec in tanta multitudine, de *Plebe* uspiam reperisse aliquid ni in his delituerit.

Gulielmus I. semel atque iterum ait se concessisse, &c. per *Commune Consilium totius Regni*. Char. Emendationum, p. 125. Et quod jam-jam citavimus de Vicecomitibus & Militibus evocatis ad fidei vinculum.

B *Gulielmus junior* ita pariter, & de *Henrico I.* lis sub judice.

C *Stephanus Rex* in Octavis Paschæ---tenuit Concilium *Northamptonia*, cui præsidebant *Eboracensis Episcopus Thurstanus*, Episcopi, Abbates, Comites, Barones, Nobiles quinque per Angliam. Continuat. *Florentii*, in Ann. 1138. p. 519. aut addenda videtur & Conjunctio, aut tollenda commâ, legendumque Barones Nobiles, & sic nihil Scrupuli:

D Sed *Richardo I.* (Hyerosolimis militante) *Johannes Comes Moretonii*, frater Regis, & *Walterus Archiepiscopus Rothomagensis*, & omnes Episcopi, & Comites, & Barones, & Cives Londonienses, cum illis convenerunt in atrio Ecclesiæ S. Pauli. Et totius Concilii Judicio, *Willielmus Elyensis Episcopus à Regni & Cancellaria regimine* deponitur, arduaue alia peraguntur. *Hoved.* in Ann. 1191. p. 701. & Epist. Hug. Covent. Episcopi, p. 703. Hoc tumultuarium videtur Concilium (quod Conciliabulum vocant) non legitimum.

E E crepusculo jam in lucem veniamus, quam a tot viris doctis istud agitantibus argumentum, miror non intuitam; *Johannes Rex* haud dicam *Parliamentum*, (nam hoc nomen non tam emicuit) sed *Communis Consilii Regni* formam & coactionem perspicuam dedit, Chartaque sua (quam aliquando vidimus) Anno Regni sui 17. statuit observandum. Proferam ipsius verba, sed primo recitandus est præcedens illic Articulus, qui ad sequentium conducit explicationem.

---Nullum (inquit) *Scutagium* vel *Auxilium* ponam in Regno nostro, nisi per *Commune Consilium* Regni nostri.

- F
1. Nisi ad corpus nostrum redimendum.
 2. Et ad primogenitum filium nostrum Militem faciendum.
 3. Et ad primogenitam filiam nostram semel Maritandam; Et ad hoc non fiat nisi rationabile Auxilium.

His

His dictis paulo inferius ait.---Et ad habendum Commune Consilium Regni de Auxiliis assidendis (aliter quam in tribus casibus prædictis) & de Scutagiis assidendis, summoneri faciemus Archiepiscopos, Abbates, Comites, & Majores Barones Regni, sigillatim per litteras nostras. Et præterea faciemus summoneri in generali per Vicecomites & Ballivos nostros, omnes alios qui in Capite Tenent de nobis, ad certum diem, scilicet ad terminum 40. dierum ad minus, & ad certum locum in omnibus literis, Submonitionis illius, causam Submonitionis illius exponemus; & sic facta Summonitione, negotium procedat ad diem assignatum, secundum Consilium eorum, qui præsentés fuerint, quamvis non omnes Summoniti venerint.

Post susceptionem Plebis in Comitibus Parliamentaria sensim decerpitur fastidiosa illa Magnatum potestas coercita, alias eorum in Tenentes imperio, & laxata, alias Plebis in eos servitute. Fit hoc statum plurimis, adeoque labefacta est superbia Procerum, ut adversus Regem nemo suscitare ausus est, novorum quidpiam si de Regno non ageretur. Sed ecce novus jam Leviathan grassari cepit Liberata jam ab imperio dominorum, offensa ex quavis causa Plebs, quæ ad arma hæctenus, absque voluntate Dominorum nunquam convolvant; jam non habentes quibus audiant, in gravissimas insurgunt rebelliones, quod ne semel unquam factum est antè.

Upon the whole I observe, That many Records and Authorities cited in this Work, are to be found in Mr. Pety's Treatise; and that the Author of it, (as I am informed by such as cannot but know it to be so) never saw above one or two of the Original Records he hath cited: And therefore it is much to be suspected he had both the Design and Materials of his Book given him.

I have in these Animadversions, in several Instances shewn how Bold this Writer hath been in mis-interpreting Histories and Records, and how he hath abused them by subtracting from them, and putting the remaining parts together with much artifice, for his own purpose, that by such practices he might delude and draw his unknowing and unwearied Readers into his Opinion. But either this Person, or another so like him in Temper, Fancy, and Scribbling, as they cannot be distinguished, hath out-done all men that ever put Pen to Paper, in either willful or pretended Ignorance, and open Effrontery in the Explanation of a Passage in Gervase the Monk of Canterbury, in the Reflections upon Antidotum Britannicum, &c. Printed 1682. with the Lord Hollis his Remains, p. 273. by which he would prove and assert the Right of all Free-men, or Free-holders, to come to, sit, vote, and make Laws in Parliament: I will present him and the Monk in Parallel.

The Reflections upon Antidotum Britannicum, p. 273, 274, 275.

Chronica Gervasii, Col. 1410, 1411, & 1412.

A IN the Sixteenth of Henry the Second, that King held his Easter Court-Baron at Windsor, as Brompton shews us, Col. 1060. n. 50. *Reg. Tenit Curiam suam in Solennitate Paschali.* Thither indeed were flockt most of the Nobility, *Fere omnes Regni Anglia Episcopi & Magnates.*

B But this being a *Curia de More*, an ordinary Court, which no more than Tenents in chief were obliged to take notice of, nothing of universal Obligation could then be established; wherefore from hence the King went to London, where, as that Historian says, *De Coronatione filii sui Henrici Majoris, & Regni sui Statutis, magnum celebravit Consilium.*

C *Gervasius* Col. 1412. (as in his Margin) who lived in that time, acquaints us particularly with the Summons and Appearance thereupon. *Convenerunt interim Die Statuto, ex mandato Regis ad Lundoniam totius Angliæ Episcopi, Abbates, Comites, Barones, Vice-Comites, Prepositi, Aldermanni, cum suis jussoribus suis.*

E There assembled at London, according to the Kings Summons, the Bishops, Abbats, Sheriffs, the Heads of Hundreds and of Tithings, with all the Frank Pledges throughout England, unless the fide jussors answer the Manucaptors.

F He says in his Margin, this Explanation is warranted by St. Edward's Laws. *Habent etiam Aldermanni, in Civitatibus, & in Burgis Clausis, & Muro vallatis, & in Castellis, eandem dignitatem, &*

A Brief and True Account of this great Meeting, which *Gervase* the Monk of Canterbury mentions, will discover the wonderful Ingenuity and Sagacity of this busie Writer.

In the year 1166. King Henry the Second went into Normandy, Chron. Gerv. Col. 1399. lin. 5. and there staid until the year 1170. when on the Third of March he landed in England, Ib. Col. 1410. lin. 1. &c. In his absence many Enormities, Exactions upon, and Extortions from the People had been committed, by his own Ministers and Bayliffs, by the Earls, Barons, Bishops, Abbats, or their Ministers and Bayliffs, and by the Sheriffs of Counties, and their Ministers and Bayliffs. For redress whereof, the King, *Convocatis optimis viris suis, instituit, Abbates & Clericos, Comites & Milites, qui circumirent terram, Dans formam inscriptam, quomodo eis esset agendum, Ibid. n. 10.*

In Cantiam, Suthreiam & Middelfexe, & Berkescire, & Oxenfordscire, & Buckinghamscire, & Bedefordscire, *Missi sunt Abbas Sancti Augustini Cantuariæ, Abbas de Cherteseie, Comes de Clara, Willielmus de Abzancis, Manesier Dammartin, Geroldus filius Radulfi, Gilebertus de Pinheris, Willielmus filius Hel. Willielmus filius Nigelli, Willielmus filius Martini, Radulfus de Hospitali, Radulfus de Dene: Hi omnes simul suprascriptos Comitatus circumierunt. In hunc modum per alios Comitatus Angliæ, Inquisitores missi sunt & hac inquirere debuerunt.*

In

& potestatem, & modum, qualem habent prapofiti Hundredorum, & Wapentachiorum, Spelm. Gloss. Tit. Aldermanus. What warrant this can be for his Explanation, 'tis not, I think, possible for any man to find out. And then he goes on with his Explication, and says further: If this takes not in all the Freeholders of England, he knows not what will; for he that was no Pledge, or was no Fidejussor, was either an Out-law, or not his own man, but his that was to be answerable for him: But every Master of a Family, or Freeholder, that was within the Protection of the Laws, was one of the Frank-Pledges. And indeed Brompton tells us in express Terms, that all the Libere Tenentes Regni sui, all the Freeholders of the Kingdom were there, for they all swore Allegiance to the young King, as well as to his Father.

Omnes Comites, Barones, & Liberos Regni sui Tenentes, devenerunt homines novi Regis Filii sui, sibi que super Reliquias Sanctorum, Ligeantias & fidelitates jurare, Fidelitate semper nihilominus sua salva, Col. 1061. n. 10.

But if Fidejussores mentioned in Gervasius, were no more than the Manuaptors which used to answer for the Appearance of them that were chose to Represent the Counties, Cities, and Burghs in Parlement, then here is positive proof of such Representation of the Commons, as was in the times of Edward the First, Edward the Second, and so downward; yet 'tis not improbable that the Pledges or Manuaptors for the Knights, Citizens and Burghesses chose to Parlement were introduced long after this time, instead of the Fidejussores, or Frankpledges, when that admirable ancient Polity, about Frank-pledges

became

In primis exigent Barones crantes, Uadium & Plegium, ab omnibus Vicecomitibus, qui fuerunt Vicecomites, postquam Rex transfretavit in Normanniam, & ab omnibus qui post terminum illum fuerunt Ballivi, & Ministri eorum, quamcunque Bailiam de illis habuerunt, & ab omnibus illis qui post Terminum illum, Hundredos Baronum, quos ipsi habent in Comitatus, sive illos habuerant ad firmam, sive in Custodia, quod erunt coram Domino Rege, Die, quem ipsi eis constituent, ad Rectum faciendum, & addretiant ei, & hominibus suis, quod addretiare debuerunt. Et si Vicecomites ante illos venire non possunt, mittant loco suo, qui pro illis respondeant, & illi Dent Uadium & Plegios sufficientes pro Vicecomitibus, & ipsi ipsis, quod facient coram Domino Rege, hoc quod Vicecomites facere deberent, ad diem Constitutum postea capient Sacramentum, ab omnibus Baronibus, Mililibus & Liberis hominibus de Comitatu, & ceteris hominibus, & ab omnibus Civibus, & Burgensibus, quod verum dicent de hoc, quod ab eis inquiretur, ex parte Domini Regis, & quod non celabunt veritatem, neque pro alicujus amore, nec odio, nec prece, nec pretio, nec timore, nec pro aliqua promissione, nec pro ullâ re, Ibid. n. 20, 30, 40.

After this follows eleven Articles of Inquiry, which were given to the Inquisitors, as Directions of what they were to do, of which the eighth was this.

Omnes qui Rectati fuerint, de quocunque Recto, ponantur per uadium & per plegium, quod sint coram Domino Rege, die quem eis ponent, & quod Rectum facient, & addretiant ei, & hominibus suis, quod addretiare debuerint. Et quibus plegii defuerint, custodiantur, Ibid. Col. 1411. n. 40.

That

became impracticable, and was discontinued or broken, through the general corruption of Manners, which rendered it impossible for whole Neighborhoods to answer for one another, and through the Pride and Ambition of some who thought themselves above that Law.

A

And when the numbers of *Frank-Pledges* (had that happy Combination still been maintained) would, through the vast Multiplication of Proprietors, have been too great to assemble together, upon any occasion requiring Counsel and serious Debates.

B

There is one Difficulty which arises upon the examining this point of Antiquity; that is, since we rarely meet with Authorities, though some there be, which particularly describe such as Citizens and Burgesses, as summoned to, or present at the General Councils of the Kingdom; what shall we think of them?

C

To which I am bold to say, that even Citizens and Burgesses might have come under the consideration of *Freeholders*, *Inter liberos Regni Tenentes*, or, *Barones*, *Baronagium*, *Barnagium*, or the like: Thus far the Reflector.

D

In this Impertinent, Senseless, yet Seditious Explanation of the words of *Gervase* the Monk of *Canterbury*, he informs his Reader what he means by *Manucaptors*, in an Instance from a Bundle of Summons to Parlement 23 of *Ed. 1.* cited in his Margin, p. 274. of *Sir John Doyley* one of the Knights for *Northamptonshire*, his having two *Manucaptors* or Sureties bound for his appearance in Parlement according to Summons, which was in those times as common as the Elections.

F

They

That is, And all which are any ways accused, shall give Security for their appearance before the King, upon the day appointed unto them, and that they shall do Right, and inform the King and his men of what they ought to be informed; and such as cannot provide Sureties, let them be committed to Prison. And then,

Facta hac inquisitione mirabili, omnes jussi sunt, ut essent coram Rege in Civitate Londoniæ, decimo octavo Kalendarum Julii, Ib. n. 60.

After this wonderful Inquisition was made, they were all commanded to be before the King in the City of London, on the 14th of June.

And then after all this, follow the words our Writer hath cited out of this Historian, and some others he hath concealed.

Convenerunt die Statuto, ex mandato Regis ad Londoniam totius Angliæ Episcopi, Abbates, Comites, Barones, Vicecomites, Præpositi, Aldermanni cum fidejussoribus suis, Timentes valde omnes. Quisque juxta conscientiam suam, metuebat, nesciebant enim quid Rex Statuere decrebisset.

This last Sentence, and all the words from the word *Suis*, (our Fair-dealing Writer) hath concealed; as likewise this which follows in the next words: *Ipsa die Henricum Filium suum, qui eadem septimana de Normannia venerat, Militem fecit, statimque eum stupentibus cunctis, & mirantibus, in Regem ungi præcepit, & Coronari.* And a little further on, the Historian says, *Coronatus itaq; novus Rex, ex Præcepto Patris sui, Comitum & Baronum suscepit fidelitates, & sic timore culparum Deposito, omnes ad propria redierunt, Ibid. Col. 1412. lin. 4. & n. 10, 20.*

In

They were *Richard Bird*, and *William Ellis*.

And whether the *Fidejussors* mentioned by the Historian, were or could possibly be understood of *Decenners*, such Frank-Pledges as were Members of the old *Saxon Decenna*, or Tithing, continued long after the Conquest, or of such *Manucaptors* as these, the Judicious Reader will be best able to determine, when he hath considered this particular Story, and the words of the Monk.

Kings Command, the Bishops, Abbats, Earls, Barons, Sheriffs, Bayliffs, and Aldermen, (or *Reves*) of all *England* came to *London*, with their *Fidejussors* or *Sureties*, greatly fearing every one according to his Guilt, what the King would do with them, &c. This is a just Account of this great Meeting at *London*, and I leave it to all sober Men, to consider the *Ignorance*, *Temerity*, and *Factionous Boldness* of this Scribler; and to judge, whether it be possible for any Man, but himself, to find out in the word *Fidejussors*, in this place of *Gervasius*, the *Decenners*, (now in *Leets* called *Deciners*, *Disners*, or *Desners*) or the Ten Persons with their Capital Pledge in every Tithing, that were Sureties for one anothers good behaviour; or the *Manucaptors* which were two or four Persons bound for the Appearance of such who were elected to serve in Parlement; according to the time limited in the Writ of Summons; or whether it be possible for any man justly, fairly, and honestly, to infer from the Passage he cites out of *Gervasius*, that all the Freeholders of *England*, as now known and understood, (for that he must mean, or nothing) had or have Right to sit in Parlement, or the General Councils of the Kingdom; and whether they, and the Citizens and Burgesses had or have Right to come to Parlements, under the Consideration of *Barons*, *Baronage*, or *Barnage*. They are his own words, and this is the Way and Genius of the Man, through all his Seditious Scriblings.

In this Story we find there were Inquisitors appointed to search into the Crimes and Enormities of the Sheriffs and their Bayliffs and Ministers in all Counties of *England*; likewise of the Kings Bayliffs and Ministers, and the Bayliffs and Ministers of the Earls, Barons, Bishops, Abbats, &c. Also that by special direction, the Inquisitors were to appoint such as were accused, a day to appear before the King, and in the mean time to find Sureties for their appearance and behaviour:

at the time appointed by the

A

B

C

D

E

F

A FULL
ANSWER
To all the
PARTICULARS
Contained in a
BOOK,
ENTITLED,
Argumentum Antinozmanicum,
OR AN
ARGUMENT
Against the ASSERTION, That
William the First
CONQUERED
ENGLAND,
And Governed as a
CONQUEROR;

And also to what *Sir Edward Coke*, *Mr. Selden* and others have
said upon the same Subject.

In which the Partiality and Ignorance, or Disingenuity and slye
Practices of this Writer, and the Mistakes of others are de-
tected, and many dark Passages of History and Antiquity, com-
monly mistaken and misunderstood, are Explained, and their
true Meaning Discovered.

In the SAVOY,

Printed by T. N. for Samuel Lowndes, over against Exeter-Exchange
in the Strand. MDCLXXXIV.

1831.12

A N
A N S W E R
T O A
B O O K

E N T I T U L E D,

Argumentum Antinormanicum, &c.

THis Book is for the most part the *Preface* to Mr. *Petyt's Rights of the Commons Asserted, &c.* put into a new Method, and that *Preface* is collected out of the several *Prefaces* to Sir *Edward Cokes* Third, Fourth, Eighth, and Ninth parts of his Reports, or Mr. *Seldens Discourse upon this Subject* in the (1.) *Review of his History of Tithes*, transcribed in this Book from pag. 37. to 46, as may appear to any one that will take the pains to compare them.

(1.) pag 481,
483. 484.

The Method he here useth (for 'tis the same Author still in Masquerade) is propounding and answering four Questions.

The first Question is,

Page 4.

Whether *William Duke of Normandy* (who was afterwards *William the First*) got the *Imperial Crown of England by the Sword*, and made an absolute Conquest of the Nation at his first Entrance.

This Question is not truly stated, for it ought not to be put, whether at his first Entrance or Invasion he obtained the Crown by the Sword, but whether in process of time, and by degrees, he did not by force and artifice, make an absolute Conquest of the Nation? For we are not so much to Consider what he did upon his first Invasion of England, or for some short time after, as to take notice of his Establishment, and Government, when it was wholly under his power, and that by the daily accession of Normans or other Foreigners, and by building very many Castles and Forts in all parts of the Nation, and placing Garrisons in them, he had secured himself and those that came with him.

The Question
not truly
stated.

We seldom, or never read of any one who designed to Conquer a Nation or People, that told them before hand, that he would deprive them of their Estates or Fortunes, give them new Laws, or abridge their Liberties, especially if he had any pretence of a Title,

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E e 2

as

(3.) *Guil. Piſt.*
f. 191. A. B.
Inguipb. f. 511.
b. w. 40 *Selden*
in his Review
of Tithes ſays
this Donation
was a lawful
Title, p. 482.
(4.) *Piſtav.* f.
197. C. In-
guipb. f. 512.
a. lin. 7.

(5.) f. 207. C.
D. 208. A. B.
The Juſtice
and Equity
of the Con-
queror at his
firſt Entrance.

*Minimū op-
primi viſtos
non oportere
victoribus pro-
feſſione Chri-
ſtiani pares.*

(6.) *Ibidem.*

(7.) f. 505. C.
506. A.

His Artifice.

(8.) *Ibid. B. C.*
& *Piſtav. f.*
208. B. 209.
B. C.

(9.) *Ibidem.*
(1.) f. 208. C.

as Duke William then had to England, the (3.) Donation and Grant of Edward the Confessor, confirmed, or at least allowed by the Popes encouraging and sending him a (4.) Banner.

Hence it was that *Guilielmus Piſtaviensis* firſt, and *Ordericus Vitalis* from him, do ſometimes report William the Conquerors ſmooth behaviour toward the English, and his equal and juſt dealings with them, upon his firſt Entrance into the Kingdom, and four or five years afterward.

Piſtaviensis (5.) ſays, after he was at *Chriſtmas Crowned* at London, he ordered many things prudently, juſtly, and mildly, ſome to the profit and dignity of that City, ſome to the advantage of the whole Nation, and other ſome to the benefit of the Churches of the Land; whatever Laws he Dictated, he Eſtabliſhed with Excellent Reaſon. No Perſon in any Matters asked of him right Judgment, he Condemned none, unleſs ſuch as it had been a Sin not to have Condemned, with gravity he Commanded things worthy of themſelves to be performed by his Prime Men, and diligently perſwaded them to Equity, that they ſhould have continually before their Eyes, the Eternal King, by whoſe power they overcame, that the Conquered ought not too much to be oppreſſed, being equal to their Conquerors in the profeſſion of Chriſtianity, leſt by Injuries they ſhould force thoſe to Rebel whom they had juſtly ſubdued. He prohibited Sedition, Slaughtering, and all Rapine, reſtraining the People with Arms, and Arms with Laws; He impoſed Tribute, and every thing that was to be paid into the Exchequer moderate, and without Grievance; Thefts, Intruſions, Evil Doings were not allowed in his Territories, the Ports and all Paſſages were open to Merchants and Traffickers, and he commanded they ſhould receive no Injury, (6.) ſo the beginning of his Reign was altogether fair and juſt. The Latin, whereof this is a Tranſlation word for word, is Tranſcribed by (7.) *Ordericus* out of *Piſtaviensis*, and is Cited by this Author from *Ordericus*, pag. 89. of which he gives only the ſenſe, and wreſts it to his own purpoſe, pag. 71. or as it is falſe Printed 41.

Theſe Actions of the Conqueror were all Artifice to make the English ſecure, while he did his own Buſineſs, for immediately after this, both theſe Authors Report (8.) that William left the City, and ſtaid ſome time at Barking in Eſſex, until certain Caſtles and Forts were finiſhed in the City, to keep the People in ſubjection, and that from thence he went into other parts of the Kingdom, and cr-dained things profitable for himſelf and the Inhabitants. And appointing Trusty and Stout Frenchmen Governors in his Caſtles which were Garifoned, with many Horſe and Foot, in March following he paſſed into Normandy, taking with him as Hoſtages *Stigand* the Arch-Biſhop, *Edgar Atheling*, the three great Earls, *Edwin*, *Mortar*, and *Waltreof*, with very many others of the Chief Nobility for the ſecurity of his New Conqueſts.

They (9.) both further ſay, he gave the Governors of Caſtles great Eſtates in England, and (1.) *Piſtaviensis* adds theſe words to his Report, *Nulli tamen Gallo datum eſt Quod Anglo cuiquam injuſte fuerit ablatum.* That no Frenchman had any thing given him which was unjuſtly taken from an Engliſhman.

Ordericus

A Ordericus that most commonly Transcribes not only the Matter but the words of *Pictaviensis*, omits this passage, as knowing it not to be according to truth, for although he was (2.) *Chaplain* to the Conqueror and wrote his Acts, such as he saw, and was present at, yet (3.) through cross Events was hindered writing the whole Life of this Duke and King, and brought his History no farther than the year 1070. as Ordericus in that year tells us. 4. *Hic usque Gulielmus Pictavinus Historiam suam texuit in qua Gulielmi Gestis subtiliter & Eloquentem Enucleavit.* And so far as he wrote Ordericus Transcribed, interposing some things of his own, though now we have nothing further of this History after the (4.) death of Earl Coxo, which happened in the (5.) year 1067. so that both *Pictaviensis*, and Ordericus in what he reports from him are incompetent Witnesses of Duke Williams Establishment in England, it being for the greatest part made and perfected after the time of *Pictaviensis* his Writing.

(2.) Orderic
f. 503 D. 10
A.
(3.) Ibidem.

(4.) Pictav f.
212 D. 13
(5.) Order f.
509 A.

B And whatsoever these Historians say of William the First in the beginning of his Reign, who ever attends to his Actions, (6.) as drawing his Army about Westminster Abby on the day and the time of his Coronation, his building Fortresses and Castles within the City of London, and placing Norman Garisons and French Governors or Castellanes in the Castles in the Country, and giving them great Estates, his carrying the Chief of the English Nobility with him as Hostages into Normandy, (which was but an honourable Imprisonment) and his Dictating Laws, cannot but believe, he intended to Rule as a Conqueror and by the Sword from the very beginning.

(6.) Pictav f.
206. A.

William at his
act d. 1067
Conqueror.

D This in general is a sufficient Reply to what this Author hath said in the solution of his first Question, but foreseeing he will by another Method and another Title make a new Book of the same Materials, if all his trifling Instances be not refuted, I shall particularly consider what he hath said in verification of his Answer to it.

He says William laid a far greater stress upon his Claim and Titles to this Kingdom, than ever he did upon his great and mighty Conquest, which he affirms to be evident from the Particulars following.

Antinorm. p.

E First, In that before his Conquest, when the People had chosen Harold, the Son of Earl Godwin, for their King, after the death of Edward the Confessor, and had put aside Edward Ætheling, by right of Blood and Inheritance Entitled to the Crown. This Norman Duke made his loud Complaints of the Injuries done him in not Electing him, for he was Cosen German to the Confessor who died without Issue, and therefore pretended the Right truly devolved upon him.

Ibidem, & p.
Engl. ab 200
quo, p. 3.

F What is here said concerning the choice of Harold, and insinuated on purpose to abuse unwary Men, and cheat them into a belief that this is an Elective Monarchy, is not true, if we may credit the best Historians, and such as lived nearest the matter of Fact. *Pictaviensis* tells (6.) us, That *perjurus Haraldus Regium Solium cum plausu occupavit, quibusdam iniquis faventibus.* Perjured Herald usurped the Royal Throne, a few wicked Persons favouring him. (7.) In-

Harold was
not Elect d
King.

(6.) f. 196. D.

(7.) f. 511 E.
n. 50.

gulphus

(8.) f. 52. b.
n. 30. 40.

(9.) f. 210. b.
n. 10.

* Rex Heraldus Secundus Godwini filius hoc Regnum sibi temere usurpavit. Paris, in vit. Abb. f. 40. n. 20, 30. King Harold the second Son of Godwin, rashly usurped to himself this Kingdom. (1.) f. 633. A. D. 1066.

(2.) Col. 193.
n. 30.

(3.) Flor. Wigorn. f. 635. A. D. 1067.

golphus says, *Throno regio se intrusit*. That he thrust himself into the Royal Throne. (8.) William of Malmesbury reports, That Extorta a Principibus fide, arripuit Diadema, quamvis Angli dicunt a Rege Edwardo Concessum. Quod tamen magis Benevolentia quam Iudicio allegari Existimo (saith the same Historian) ut illi Hereditatem transfunderet suam, cuius semper suspectam habuerit potentiam. Having extorted an Oath of Fidelity from the Principal Men of the Nation, he seized the Diadem, although the English Report, it was given him by King Edward, which yet was (as Malmesbury thought) alledged rather out of kindness to Harold than belief, or judgment, that he should transfer his Kingdom or Inheritance to him, whose power he always suspected. With these agrees Hen. of Huntingdon, whose words are, (9.) Haraldus viribus & genere fretus, Diadema invasit. Harald by force and the assistance of his Relations and Kindred invaded the Crown. * This is Testimony enough to shew that Harold was not Elected; and though Florence of Worcester says he was Elected, yet he could mean no other thing by it, then that he was received, and submitted to as King. Or, that as these five Historians (two whereof were living when the thing was done, and two of the other not long after) do report, that he set the Crown upon his own Head by force, fraud, and the assistance of his powerful Kindred and Friends. His words are these, (1.) Rex Edwardus Epiphania Domini vigilia, mortem obiit Londonia, & in Crastino sepultus, Regio more, Quo tumultato, Subregulus Haraldus, Godwini Ducis filius, quem Rex ante suam Deceffionem, Regni successorem Elegerat, a totius Anglia primatibus, ad Regale Culmen Electus, die eodem ab Aldredo Eboracensi Archiepiscopo in Regem est honorifice Consecratus. We find in this Relation, that Edward the Confessor died on the Eve or Vigil of Epiphany, and was buried the next day, being the Feast of Epiphany, and that on the same day Harold (according to this Historian) was chosen and Crowned King by the Prime Men of all England. These must be such only as were about the Court, and no others, it must be also a Faction that set him up, or rather assisted him in setting up himself, for it can never be imagined that the People could have notice all England over to come to, or send their Representatives to such a Solemnity, and that the Election should be made, and the King Crowned in the space of twenty four hours; and therefore if it should be granted, that he were chosen, the People never did choose him, as this Author insinuates, nor so much as had notice of, or did know of his Election, so that they only received, and submitted to him as their King.

The same words hath (2.) Simeon Dunelmensis (who is an exact Transcriber of Florence) save that in stead of *primates*, he useth the word *principes*, which is of the same signification; and what he meant by *primates*, we are taught by the same Author in the year following. (3.) Advenient Quadragesima Rex Gulielmus Normanniam repetiit ducens secum Dorobernensem Archiepiscopum Stigandum, Glastoniensem Abbatem Agelnothum, Clitonem Edgarum, Comites Eadvinum, & Morcarum Walthesum Siwardi ducis filium, Nobilem Satrapam, Agelnothum Cantuariensem, & multos alios de Primatibus Anglia. In Lent King William returned into Normandy, carrying with him Stigand Arch-Bishop of Canterbury, Agelnoth Abbat of Glastonbury, Prince Eadgar, the Earls Edwin and Morcar, Walthes Son of Duke Siward,

Sivard, Agelnoth the Noble Earl of *Kent*, and many others of the *Prime Men of England*; Amongst these, and such as these *Primates*, were no *Commons*, and therefore the *People* (in this Gentlemans sense) did not Elect him, nor can it be any ways proved, (by any Person that would make this an *Elective Monarchy*) that he was ever *Elected* according to the genuine, and just meaning of that word, for which see the *Glossary*.

A

Nor is it less untrue that the Kingdom truly devolved upon *William* by right of *Blood*, if he had not been a *Bastard*; for he had no other pretence of right that way, then by *Emme*, who was *Sister* to *Richard* the Second Duke of *Normandy*, and *Aunt* to his Father *Robert*; and the *Relation* she had to the Kingdom of *England* was only by being *Queen* to *King Ethelred*, and afterward to *Cnute*, and Mother to *Edward the Confessor*.

B

Secondly, Certain it is, that the *Confessor* named him his *Successor* some time before he died, and that (4.) he sent over *Robert* Arch-Bishop of *Canterbury* to inform him that he had done it; but we will pass over this pretence, until we come to his 18, and 19 Pages, where it will be more aptly taken notice of.

Antinorm. p. 5.

The Kingdom did not devolve upon William by Right of Blood.

Antinorm. p. 6. & 18.

(4.) Ingulph. f. 511. b. n. 40.

C

The third Particular, by which he would make it evident that *William* laid a far greater stress upon his *Claim* and *Title* than his *Sword*, is the unkind Answer that *Harold* returned to *William*, when he sent to him to demand the Kingdom according to *King Edwards* Donation, and after what manner he raised an Army and won the *Battle of Hastings*, in which *Harold* lost both his *Life* and *Crown*. This is indeed a Particular much to the purpose, but let it be never so ridiculous and absurd, yet there are two Citations in the Story, which seem to favour another fancy of this Authors about the ancient Rights of the *Commons*, &c. and for the sake of them he framed it.

Antinorm. p. 6.

Ibid. p. 8, 9.

D

The first is the Answer (5.) which *Harold* sent Duke *William*, cited out of *Malmsbury*, f. 56. a. n. 20. when he was pressed with the Oath he had made to him to assist him in obtaining the Kingdom after the *Confessors* death, in these words, *De regno presumptuosum fuisse Quod absque generali Senatus & populi Conventu & Edicto, alienam illi hereditatem Juraverit, proinde stultum sacramentum frangendum*. Concerning the Kingdom it was a presumptuous thing in him to Swear to give Assistance to obtain another Mans Inheritance, without a general Convention and Edict of the Senate and People, and therefore a foolish Oath was to be broken.

(5.) Antinorm. p. 6.

E

This last Clause of the Answer he hath omitted, and for what reason, it will presently appear; and truly he might have omitted the whole, as no ways proving the *Commons* to have had any share at that time in the Government, if he had considered what hath been said upon this very Passage in the Answer to Mr. *Petty*, pag. 16. or what he himself hath said in this Book, pag. 31. partially cited out of *Mat. Paris* writing of the Title of *William* the Conqueror; *Dicitur* (6.) *tamen quod beatus Edwardus, eo quod heredem caruit, Regnum legavit Willielmo Bastardo Duci Normanicorum*; and cites no more, the next words being *Sed robore caruisse asseritur, quia fecit in lecto lethali*, &

(6.) f. 941. n. 50.

F

Et sine Baronagii sui assensu Comuni. These last words of *Paris* do Expound and give us the meaning of those of *Malmsbury*, *absque generali Senatus Et Populi Conventu Et Edicto.* That is, without the common assent of the Clergy and Laity, or the Baronage of *England* of both Orders; those words of *Malmsbury*, and the other of *Paris* being spoken upon the same occasion.

Antinorm. p. 8.

(7.) p. 173.

And for no other end, he tells us by what means *William* raised his Army with which he subdued *Harold* and the Nation: his Author is (7.) *Verstegan* in his *Restitution* of decayed Intelligence, who says the greater part of the Nobility and People were unwilling to assist *William* in this Enterprize. But at length the Duke whose Head was filled with Ambition, so much prevailed in his Assemblies of the three Estates, which consisted of the Clergy, Nobility, and Commons, that the Nobility promised to serve him, and the Clergy and People to aid him with Money, according to their several abilities; and such Offers as they made, were forthwith set down in Writing, by a Secretary there present. Here our Author stops, and had no

A

B

(8.) p. 174,
175.

mind to go on with *Verstegan*, who in the next words says, that *Odo* Bishop of *Bayeux* accorded to furnish him with forty Ships, the Bishop of *Meins* with thirty, and others according to their benevolent minds; then began he to desire Aid of the Princes his Neighbours, as of the Earls of *Anjou*, *Poitou*, *Du Main*, *Ponthieu*, *Boulounge*, and others, promising to give Land unto every of them in *England*, if he Conquered it, according to their Qualities. And in the next (8.) Pages he further writes, that *Alan Fergant* Duke of *Britan*, the Lord of *Tovars*, the Son of the Lord *Bertram* of *Dig-nam*, *Raoul* of *Gayel*, and other Barons and Gentlemen, as well of *Normandy*, as other parts, came in great numbers of their own accord, some of them required Wages and good furniture, others demanded but their Passage, and to take in recompence of their Service, what they could get in *England*, one demanded a Castle, another a Town, and some contented themselves with the promise of having some good Lady or Gentlewoman in Marriage, and unto the Requests of every one of them the Duke accorded. This is full Evidence indeed, that *William* did not intend to Rule as a Conqueror; but let us see what the three Estates were with whom the Duke consulted about this Expedition, (for this Story was drawn in, meerly to countenance the fancy of the ancient Rights of the Commons, &c.) *Pictaviensis* who was in this Action with him, tells us,

C

D

(9.) f. 197.
A. B.

(9.) that very many of the great Men of *Normandy*, dissuaded the Duke from the Enterprize, as a thing too difficult, and above the power of *Normandy*; that there were then in that Country, besides Bishops and Abbats, Men most Excellent in Council and Advice of the Lay Order, *Robert* Earl of *Moreton* or *Mortaign*, *Robert* Earl of *Ome*, *Richard* Earl of *Eureux*, *Roger de Bello-Monte*, or *Beaumont*, *Roger de Monte Gomerico*, or *Montgomerie*, *William Fitz-Osbern*, and *Hugh the Vicount*. With these * only he advised, who readily complied with what he propounded, and by their example, encouraged all *Normandy*, to provide Ships, Men, Arms, and all things necessary for War, *Convenit etiam in auxilium Miles Copiosus Externus*, there came also into his Service great store of Foreign Soldiers, and he kept 50000 at his own Charge a Month, being Wind bound in the Port of *Dive*. I believe our Author, though he should use *Verstegans* Spectacles, could hardly find any Commons in this Consult.

E

F

* *Ibidem.*

Our

Our Author says next, That the Duke was no sooner landed with his Army, but by his *Proclamation*, he declared upon what occasions he thus entred the Realm, and so preparing to give *Harold* Battle, he hereby seemed, as if he would have all the World to know, his Quarrel was more Personal, than National, and that though he was Victorious over *Harold*, he was no absolute Conqueror.

Antinorm. p. 9. 10, 11.

A This Argumentizer should (to have made this Story more plausible) have cited this Proclamation, or told us where to have found it, but if he had, it would not have signified much as to the Credibility of the Matter in Controversie, for how many *Declarations, Proclamations, &c.* was there set forth in this Nation between 30 and 40, and 20 and 30 years since, by designing Men of several *Factions*, whose *Principles* are at this present, *forging, hammering, and dressing* up again, yet not one syllable of them made good; for the *Declarations* and *Pretences* of such Men, and indeed all *the Innovators*, are but *Coverings* and *Shadows* to cheat the People, nor do they ever oblige them, when they have opportunities to advance their Designs.

Designing, oblige not their own Declarations.

B Again, If his Quarrel was only *Personal*, and that he intended only to Conquer *Harold*, and not the Kingdom; I desire our *Logician* to tell us, when he was slain, and the Battle obtained against him, why he did not *disband* his Army and make good his Proclamation? Or, why he did on the contrary *build Castles* and *Citadels* in *London*, and in very many other convenient places in *England*? Why he put *Norman* or *French* Garisons and Governors into them? And, why he oftimes sent for fresh Forces out of several Nations? Why he appointed *Odo Bishop* of *Bayeux*, and *William Fitz-Osborn*, both great *Normans*, his *Justiciaries* or *Lieutenants* to Govern the Nation, when he returned into *Normandy*, and carried with him all the *Prime Saxon Nobility*, within less then six Months after this very Battle.

Williams Quarrel was not Personal against *Harold* only.

C He proceeds, and from King *Williams Coronation Oath*, he will prove what he hath said, to which he may easily receive an Answer from an *English* Proverb, That there is never an Oath, but is either broken or kept; and his proof from the Conquerors taking an Oath, signifies nothing, unless he can also prove that he kept it. More Conquerors than one, have used *fair pretences*, and made *smooth* promises, and dealt cunningly with the People, to carry on their Designs, and have at first *taken* plausible Oaths, and *broken* them afterwards; nay *took* them, when they intended not to keep them, and knew they could not; and for *Oath-breaking*, *Harold* in his Answer to him when he demanded the Kingdom had given him an Example, That *Stultum Sacramentum est frangendum*, a foolish Oath is to be broken: and that is the reason this Author omitted these words in the Answer of *Harold* to *William* before mentioned, lest it should have defeated the force, and consequences of the Dukes Oath, which he intended to make use of, in favour of his Assertion.

The Conquerors Oath no Argument to prove he was not a Conqueror.

Many Specious Oaths, Protestations, Vows, and Covenants were contrived and taken by Crafty and Designing Men in the times

F f

before

A Digression
about the
Scotch Cove-
nant, &c. and
the Rebellion
raised there-
upon.

before mentioned, and imposed upon the People, contrary to the *Oaths of Allegiance*, they had before taken, for no other ends than to cheat them into Rebellion, and make them the Authors of their own Slavery, which was discovered too late, and when they were under the power of an Army, and could not help themselves.

The same Parliament, (as they called themselves) the very same Lords and Commons, or at least the leading and prevalent Party, and *Oliver Cromwell* and many of his *Caball* into the bargain, that lifted up their hands in the presence and fear (as they pretended) of Almighty God, and swore to and subscribed (when they wanted the assistance of the *Scots* in the year 1643.) the *Covenant* sent out of *Scotland*, which in the year 1646. when the Kings Forces were beaten out of the Field, and most of his Garisons reduced, and he himself forced to fly to the *Scots* Army, and they in a condition to keep in subjection the Nation, and drive the *Scots* out of it, they interpreted according to their own sense and advantage, quite contrary to the sense and meaning was intended by the Contrivers of it, and as the very same Men at first accepted and received it.

(1.) Proposi-
tions of the
Parliament of
England to be
presented to
the Assembly
of *Scotland*,
&c.

In the year 1643. when they were in a low, and the King in a flourishing condition and like to be successful, on the Tenth of *August* both Houses did desire the Reverend Assembly of *Scotland* to lay seriously to heart, the state and condition of their Sister Church and Kingdom, and not only by their prayers to assist in those Straights, but also by such seasonable and effectual Means, as to them should seem meet, to further and expedite the present aid and assistance demanded by both Houses; and their Commissioners were to make known unto them, that they were designed and sent by both Houses, to the general Assembly of the Church of *Scotland*, to propound to them, and consult with them, concerning such things as might conduce to their own Reformation, and their so much desired Conjunction with that Church.

Religion the
the state of
the Cause be-
tween the
King and both
Houses.

And in their Propositions delivered to the Assembly on the Fifteenth of the same month and year, they affirm the true state of the Cause, between the King and both Houses, was Religion, in the Reformation whereof they were, and had been so forward and zealous, as that there was not any thing expressed unto them by their Brethren of *Scotland*, in their former or latter Declarations, which they had not seriously taken to heart, and seriously endeavoured to effect, that so the two Kingdoms might be brought into a near Conjunction, in one form of Government, one Directory of Worship, one Catechism, &c. and the foundation laid, of the utter extirpation of Popery and Prelacy out of both Kingdoms. The most ready and effectual means whereunto, they conceived to be, that both Nations enter into a strict Union and League according to the desire of the two Houses of Parliament.

The two Hou-
ses at *Westmin-*
ster desire the
Scotch Church
Government,
&c.

On the Seventeenth of the same Month the form of the Covenant, to be entered into by both Nations was agreed unto by the Committees of Estates, and of the general Assembly of *Scotland*, and the Commissioners of the Parliament of *England*, and then it was sent from *Scotland* into *England*, and returned again.

The form of
the Covenant
agreed.

By

By *Directions* of both *Houses*, the *Assembly* of *Divines* in *England* were great *Instruments* in prevailing with the *general Assembly* in *Scotland*, and wrote several *Canting*, *Enthusiastick*, *Hipocritical Letters* to them, as that of *Aug. 4.* at *Westminster*, 1643. &c. who were called together by special *Contrivance*, and the Men pickt out on purpose to please the *Kirk* and *Brethren* of *Scotland*.

The Assembly of Divines Canting, Hypocritical Letters to the general Assembly of Scotland.

- A The Propositions of *Treaty*, or rather of *Englands* *Toak* and *Slavery* were agreed upon, and the *Scotch Covenant* Received as it was sent from *Scotland*, and the *Articles* Signed the *Twenty ninth* of *November* 1643. at *Edinburgh*, in which it was agreed and concluded, That the *Covenant* represented to the *Convention* of *Estates* and *general Assembly* of *Scotland*, and sent to both *Houses* of the *Parliament* of *England* in the same form as it was returned, from the two *Houses* of *Parliament* to their *Brethren* of *Scotland*, and allowed by the *Committee* of *Estates*, and *Commissioners* of the *general Assembly*, be sworn and subscribed by both *Kingdoms*, as a most near *Tie* and *Conjunction* between them, for their *mutual defence* against the *Papists* and *Prelatical Faction*, and their *Adherents* in both *Kingdoms*, and for pursuance of the *Ends* expressed in the said *Covenant*.

The Scotch Covenant received as sent from Scotland.

Article I.

- C That an *Army* to this purpose should be forthwith levied, consisting of 18000 Foot, 2000 Horse, and 1000 Dragoons, &c. to have 100000 *l.* advance, and to be paid 30000 *l.* monthly out of the *Estates* and *Revenues* of the *Papists*, *Prelats*, *Malignants*, and their *Adherents*, or otherwise; and if the *States* and *Kingdom* of *Scotland* should demand further satisfaction of their *Brethren* of *England*, when the *Peace* of both *Kingdoms* should be settled, for their pains, hazard, and charges, &c. they should have due *Recompence* made unto them, out of such *Lands* and *Estates* of the *Papists*, *Prelats*, *Malignants*, and their *Adherents*, as the two *Houses* of *Parliament* of *England* should think fit.

Article II. and V.
An Army of Scots to be raised in pursuance of the Ends of the Covenant.

To be paid out of Papists, Prelats, and Malignants Estates, &c.

- D That no *Cessation*, nor any *Pacification*, or *Agreement* of *Peace* whatsoever, shall be made, by either *Kingdom*, or the *Armies* of either *Kingdom*, without the *mutual Advice* and *Consent* of both *Kingdoms*, or their *Committees* in that behalf appointed, who are to have full power for the same, in case the *Houses* of *Parliament* in *England*, or the *Parliament* or *Convention* of *Estates* in *Scotland* shall not fit.

Article VIII.

A Committee to have the power of Parliament when they sit not.

- E The *Covenant* it self had this Title. *A Solemn League and Covenant for Reformation and Defence of Religion, the Honor and Happiness of the King, and the Peace and Safety of the three Kingdoms of England, Scotland, and Ireland*

The Title of the Covenant

- F The first, second, and third *Articles* of the *Covenant* were, That they which did take it, should sincerely, really, and constantly, through the *Grace* of *God*, endeavour in their several places and callings, the preservation of the *Reformed Religion* in the *Church* of *Scotland*, in *Doctrine*, *Worship*, *Discipline*, and *Government*, the *Reformation* of *Religion* in the *Kingdoms* of *England* and *Ireland*, in *Doctrine*, *Worship*, *Discipline*, and *Government*, according to the *Word* of *God*, and the *Example* of the best *Reformed Churches*: and should endeavour to bring the *Churches* of *God* in the three *Kingdoms* to the nearest *Conjunction*, and *Uniformity* in *Religion*, *Confession* of *Faith*, *Form* of *Church Government*, *Directory* for *Worship* and *Catechizing*.

The Contents of the Covenant.

Secondly, That they should without respect of Persons, endeavour the *Extermination* of Popery, Prelacy, (that is Church Government by Arch-Bishops, Bishops, Deans, and Chapters, Arch-Deacons, &c.) Superstition, Heresie, Schism, Profaneness, and whatsoever should be found to be contrary to sound Doctrine and the power of Godliness.

Thirdly, That they should with the same sincerity, reality, and constancy, in their several Vocations endeavour, with their Lives and Estates, mutually to preserve and defend the Kings Majesties Person and Authority, in the preservation and defence of the true Religion and Liberties of the Kingdoms, that the World might bear Witness with their Consciencies of their Loyalty, and that they had no thoughts or intentions to diminish his Majesties just power and greatness.

And Article the Sixth, That they should in their Places and Callings, in that Common Cause of Religion, Liberty, and Peace of the Kingdoms, assist and defend all those that did enter into that League and Covenant in the maintaining and pursuing thereof, and should not suffer themselves directly or indirectly by whatsoever Combination, Perswasion or Terrors, to be divided or drawn from that Blessed Union and Conjunction, whether to make defection to the contrary part, or to give themselves to a detestable Indifferency or Neutrality in that Cause which so much concerned the Glory of God, the good of the Kingdoms, and Honour of the King.

This Covenant was agreed to by the two Houses in England before the Twenty ninth of August next following, as appears by (2.) *Husbands Collections*. There was a Declaration of both Houses for the Members that were in the Army to take the (3.) Covenant, another Ordinance October the Tenth, for divers Soldiers to take it at (4.) St. Margarets Westminster, and another for the same purpose (5.) December the Twelfth; so forward and zealous were the two Houses to humour and please the Scots at that time, that they caused the Covenant to be taken by their Army Officers, before the Articles of Treaty, to pursue the Ends of it were Exchanged, and Signed in Scotland.

An Ordinance of both Houses, (6.) That all Officers of the Law shall take the Covenant or lose their Offices, that no Practising Lawyers, Serjeants, Barristers, Attorneys, Solicitors, Clerks, &c. shall be admitted to Plead or Practise, unless they take the Covenant.

The (7.) Declaration of the Kingdoms of England and Scotland of the same date, joined in Arms for the vindication and defence of their Religion, Liberties and Laws, against the Popish, Prelatical, and Malignant Party, by the Honourable Houses of the Parliament of England, and the Honourable Convention of Estates; In which they say this Covenant was Gods Covenant, that he would never have put it into the hearts of both Nations to have Sworn and Subscribed it, if he had been minded to destroy them; and that the War in which both Nations were so deeply engaged, was of God. They are their own words.

They also declare, (8.) That Neutrality and Indifferency in the time of danger of Religion, was a thing detestable to God; that such as have been Neutralists or indifferent in the times of Civil Division and danger of the Common Wealth, have been in all Nations severely punished, as pernicious and publick Enemies, and therefore they gave publick warning to such Persons to rest no longer upon their Neutrality,

or

(2.) f. 312.

(3.) Ibid. f.

327. Sept. 20.

(4.) Ibid. f.

359.

(5.) Ibid. f.

399.

(6.) Ibid. f.

416. Jan. 30.

1643.

The Cove-

nant injoined.

(7.) Ibid. f.

417.

They call it

Gods Cove-

nant.

(8.) Ibid. f.

418.

Neutralists to

be punished

as publick

Enemies.

or to please themselves with the *naughty* and *sloathful* pretext of *indifferency*, but that they *address* themselves speedily to take the *Covenant*, and join with all their power in the *defence* of that Cause against the *Common Enemy*, otherwise, they do declare them to be *publick Enemies* to the *Religion* and *Country*, and that they are to be *censured* and *punished*, as *professed Adversaries* and *Malignants*. They are their own words.

A

And they did further declare, (9.) That the *whole Estates real and personal, moveable and inheritance* of *such to be seized by Sequestrators, and the Rents to be by them received, and the Goods and Chattels sold*; and there are many hundreds, if not thousands yet living, that have known, and seen Ministers in all Countries turned out of their Livings, and Laicks out of their Estates, and their *Goods seized by Sequestrators*, and appraised by Appraisors of their own appointment, and sold before their faces, for refusing to take this *Covenant*, and being Rebels.

B

Febr. 2. An (1.) Ordinance of the two Houses enjoining the taking of the *Solemn League and Covenant* throughout the *Kingdom of England and Wales*, with *Instructions* and an Order, that the Assembly of Divines do prepare an Exhortation for the better taking of it; and that that Exhortation and (2.) Declaration of the Kingdoms of England and Scotland, joined in Arms for the vindication and defence of their Religion, Liberties, and Laws, against the *Popish, Prelatical, and Malignant Party*, and passed the Thirtieth of January last, be publickly read, when the *Covenant* is read, and also that the names of such as refused it, should be returned, to the Committees in each County, and by them to the House of Commons.

C

The King by his Proclamation dated at Oxford, October 9. the same year, prohibited the tending and taking of this *Covenant*, reciting, that the Commons had ordered it to be Printed and Published on the Twenty first of September then last past, being in truth, as the Proclamation sets forth, nothing else but a *Traiterous and Seditious Combination* against him, and against the *Established Religion*, and *Laws* of the Kingdom, though it seemed to make *Specious Pretences* of *Piety* and *Religion*. We shall not here examine the *wickedness* and *impiety* of this (as they called it) *Holy Union* and *Covenant*, nor the *blasphemous* Expressions which were consequential to, and fixed upon it, of *Gods Covenant*, and *Gods War*, which was undertaken in pursuance of the Ends of it, but see how they observed such ends, meanings, and intentions, as might fairly be deduced from the words and tenor of it.

E

When the King was in the Scots Quarters in the Months of October and November 1646. there arose a Dispute between the two Houses and the Scots Commissioners, (3.) who had the Interest in disposing the Person of the King, the Scots claimed a joint Interest with the English, and the Commons affirmed the Kingdom of Scotland had no right of joint Interest, in disposing of the Person of the King in England, when indeed neither had right or interest in disposing of his Person legally, for right to do that implies a superiority and power of the Disposer, over him that is to be disposed of, either by just

F

Dominion

(9.) Ibid. f. 420. and f. 220. n. 6, 7.

(1.) Ibid. f. 420. The Covenant enjoined to be taken by all.

(2.) Ibid. f. 421.

The King by Proclamation prohibits the taking of the Covenant.

A Dispute between the two Houses and Scotch Commissioners, &c.

(3.) The Answer of the Commons to the Scots Commissioners Papers of the 20th and 24th of Octob. Printed by order of the Commons November 28. 1646.

(4.) A Declaration of the Practices and Treasons of Robert Earl of Essex and his Complices, together with his Trial Printed by the Queens Printers an Order, 1601. The Judges Opinion in two Points of the Earl of Essex his Treason against Queen Elizabeth.

(5.) Bakers Chron. f. 568. col. 2.

The Scots sell their King.

The Commissioners names that received the King.

(6.) His Message to both Houses from Holdenby, May 12. 1647.

Presbyterian Practices.

Dominion and Sovereignty, or *Direction* of the Law, and in this case there was neither of these to be pretended unto, for the *dominion* and *power* of the *Sword* gained by Rebellion, under which the King then was, is no just *Dominion*; besides this Reason, the *Judges* above fourscore years since, in the *Case* of the (4.) *Earl of Essex* his *Rebellion* and *Treason* against *Queen Elizabeth*, delivered their *Opinions* for matter of Law in two notable *Points* concerning the like actions and behaviour of *Subjects* towards their King, as was in this case.

The first, That in *Case* where a *Subject* attempts to put himself into such *Strength* as the King shall not be able to resist him, and to force and compel the King to govern otherwise, then according to his own *Royal Authority* and *Direction*, it is manifest *Rebellion*.

Secondly, That in every *Rebellion*, the Law intendeth as a *Consequent*, the compassing the death and deprivation of the King, as foreseeing, that the *Rebell* will never suffer that King to live or Reign, which might punish or take revenge of his *Treason* and *Rebellion*.

'Tis more then probable this *Dispute* was not in earnest, and but only a *blind* to what followed soon after; (5.) for before, or rather at the very time of it, they agreed with the two Houses upon *Terms* for their marching out of *England*, by which Agreement they were to have 200000 *l.* paid upon the delivery of *Newcastle*, *Berwicke*, and *Carlisle* to the Parliament, and two hundred thousand more secured to them upon the Publick Faith of the Kingdom. The first Payment was made at *Newcastle* according to Contract, and thereupon they delivered the King to the *Earls* of *Pembroke* and *Denbigh*, the *Lord Montague*, *Sir James Harrington*, *Sir John Holland*, *Sir Walter Earl*, *Sir John Cook*, *Mr. Crew*, and *Major General Brown*, who were *Commissioners* appointed by the Parliament to receive him. The Scots march out of *Newcastle*, *Febr. 6.* and the King two days after with these *Commissioners* set forward toward his House at *Holdenby* in *Northamptonshire*, where he arrived on the Sixteenth of that Month, and was (6.) kept close Prisoner several Months, his *Servants* were denied access to him, none but the *Commissioners* or who they pleased were permitted to converse with him, nor were any Letters to be given to, or received from him, and he was in that distress and affliction denied the use and assistance of his own *Chaplains*, Men of Exemplary Piety and sound in the Protestant Religion.

They were the same two Houses, and the same Scots that did these things, which entred into a *Solemn League and Covenant*, for Reformation of Religion, the Honor and Happiness of the King, &c. that sware they had no thoughts or intentions to diminish his Majesties just Power and Greatness.

They were the same two Houses, or at least the leading and prevailing Party in them, and their same Neutral Followers, that while he was their Prisoner, always sent unreasonable Propositions to him, to which he could not consent, without disclaiming his Reason, violating his Conscience, and destroying the Religion and Government then by Law Established.

They were the same two Houses as before, that on the Twenty fourth of *December 1647.* sent four Bills to the King to the Isle of *Wight* to be passed, as previous to a Treaty, by which he was to unking himself, allow and confirm all they had done, and give them all the power of the Kingdom, together with three and twenty Propositions,

tions, (whereof the Fourteenth was that an *Act* might be passed for the settling of the Presbyterian Government and Directory) which upon the passing of those Bills were to be treated of.

A They were the same Presbyterian Covenanting two Houses, that on the Fifteenth of January next following, reciting they had received an absolute Negative to the four Bills, (which as they affirmed contained only matter of safety and security to the Parliament and Kingdom) passed the following Votes.

Resolved upon the Question, That the Lords and Commons do declare, that they will make no further Addresses or Application to the King.

Resolved upon the Question, by the Lords and Commons Assembled in Parliament, That no Application or Address be made to the King by any Person whatsoever, without the leave of both Houses.

B Resolved upon the Question, by the Lords and Commons Assembled in Parliament, That the Person or Persons that shall make breach of this Order, shall incur the Penalties of High Treason.

Resolved upon the Question, That the Lords and Commons do declare, that they will receive no more any Message from the King, and do injoin that no Person whatsoever, do presume to receive, or bring any Message from the King to both, or either Houses of Parliament, or to any other Persons.

C These Votes were the Grounds and encouragement of that Long, Bloody, and Execrable Remonstrance of the Lord Fairfax General of the Parliaments Forces, and of the General Officers held at St. Albans the Sixteenth of November 1648. presented to the Commons Assembled in Parliament the Twentieth of that Month, dated at St. Albans the Eighteenth, and Signed John Rushworth, as they do confess in the 52^d, 53^d, and 60th pages of the same; in which they propound, move for, and press openly the Murther of the King, and the Alteration of the Government.

The Commissioners of the Kingdom of Scotland put forth an Answer to both Houses of Parliament upon these new Propositions of Peace and four Bills, before they were sent to his Majesty, and at the (7.) conclusion of it they set down their Desires, the chief of which were.

E First, That in stead of sending Propositions, there might be a Personal Treaty with his Majesty at London, and that he to that end might be * invited to come thither with Honour, freedom and safety.

Secondly, That the Honourable Houses, according to the Solemn Vows, Treaties, Declarations and Engagements between the two Kingdoms, would after so very long delay, Establish the Solemn League and Covenant, and that his Majesty be desired to give his Royal Assent, for confirming the same by Act of Parliament in both Kingdoms.

F Thirdly, That the settling Reformation of, and Uniformity in Religion according to the Covenant in England and Ireland, be likewise desired in these new Propositions; and in particular, that the Confession of Faith, Directory of Worship, Form of Church Government, and Catechizing, agreed upon by the Assembly of Divines, and presented to the Houses, be Established.

Fourthly, That by Act of Parliament effectual Course be taken, for suppressing Blasphemy, Heresie, Schism, &c.

Fifthly,

Presbyterian
Votes for no
more Address-
ses to the
King.

The Grounds
of the Bloody
St. Albans Re-
monstrance.

There were
several papers
dated at St.
Albans of this
nature.

The Scotch
Commissioners
Answer
their Proposi-
tions and four
Bills.

(7.) p. 25, 26,

27.
They pro-
posed a Per-
sonal Treaty.

* Page 6.
And the Estab-
lishment of
the Covenant.

And Disband-
ing of the
Army.

And restoring
the King to
his Power
and Govern-
ment.

The Lords
and Com-
mons publish
a Declaration
against this
Answer.

(8.) Page 20.
The Heads of
that Declara-
tion.

(9.) Page 21.

(1.) Page 21.

(1.) Page 27,
28, 70.

(3.) Page 8.

(4.) Page 86.

(5.) P. 29, 30.

(6.) Page 34.

(7.) Page 37.

(8.) Page 43.

(9.) From p.
50, to 55.

Fifthly, That the *Armies* in both Kingdoms, which were raised for *Preservation* and *Reformation* of Religion, and for defence of the Kings Person, and safety of the Kingdoms, be not kept up to hinder *Reformation* of Religion, and the King from his Government, and to be a burthen to the Subjects since the War was ended, but that they might have due satisfaction of their Arrears, and be Disbanded.

Sixthly, That the King be restored to his *Rights* or *Revenues*, and particularly, that the Crown be not excluded from the power of making *Laws*, which is as *Essential* to Kings, as to govern by *Laws*, and sway the Scepter; nor from the power of the *Militia*, without which they can neither protect their Subjects, oppose their and the Kingdoms Enemies, nor keep friendship with their Allies.

Concerning this Answer, and these Desires, the *Lords* and *Com-
mons* Assembled in Parliament set forth a Declaration, and order it to be Printed and Published, *March 4. 1647.*

Wherein they declare, (8.) they cannot admit of a *Personal Treaty*, unless they resolved to be treated out of all they had fought for, and to be treated out of what they could not be fought out of; That the *Scots* (9.) *Commissioners* mistake their aim, if they think the Kings presence with the *Parliament*, necessarily implieth his presence at *London*, which the King and they so much desired, that he might have opportunity to cajole the *Citizens*. They also mistake the *Parliaments* (1.) *Declarations*, if they thought it was the Kings local absence from his Parliament, which they declared to be the chief cause of all the *War*, *Mischief*, and *Calamities* of the Kingdom, any otherwise than it was in order to his distance in *Affections*, and his oppositions in their *Councils*, and endeavours to destroy them; and yet in their *Declaration* of *Sept. 11. 1642.* they say, that if his Majesty would then be pleased to come back to his Parliament without his *Forces*, that they should be ready to secure his *Royal Person*, *Crown* and *Dignity*, with their *Lives* and *Fortunes*, his presence in that great Council being the only means of any *Treaty* betwixt his Majesty and them with hope of success: this they own here pag. 26. and in their Answer to the *Scots* Papers about their interest in disposing of the Person of the King, pag. 66. but say nothing of moment to it in either place, this is certainly a Local, Personal Presence here meant; That they were to have (2.) satisfaction and security, safety and security granted by the King, (by which they mean the four Bills passed) before they treated or sent Propositions after the War; That the King (3.) could grant no more than what they had, (meaning his *Royalties*, *Power*, and *Government*) which they had usurped by Violence and the Sword; That it would be base and dishonourable for them in that (4.) Condition to treat under the Gallows, to treat as Traytors, their Cause being not justified, nor the Declarations against them as Rebels recalled.

Concerning Religion, (5.) they declare they could never find that *Church Government* in a *Presbyterian* way, was necessary by any *Divine Right*; That the *Scots* (6.) framed and devised the *Covenant*; They (7.) confess (speaking of the *Solemn League and Covenant*, and the things contained in it) that the state of many Questions, at that time, which went under the notion of Religion, was indeed a contest only of *Power* and *Dominion*, as it had been of old between the *Clergy* and *King*, or *Temporal Estate*; Punishments and Censures Ecclesiastical, or the *Scots Discipline* (8.) they call *Popish* and *Prelatical Principles*, and Apologize for *Seſtaries* and *Hereticks*, (9.) *Ana-
baptists*, *Antinomians*, *Familists*, *Shakers*, &c.

Con-

Concerning the Militia and Disbanding the Army they (1.) declare; *That the Militia was the Foundation of their Security, and the Principal immediate Ground of the Quarrel, in order to the Preservation of Religion, and the just Rights and Liberties of the People. That* (2.) *Laws signifie nothing without the Militia by Sea and Land; The Parliament of no Authority, without the Power of the Sword, when by the Power of the Sword, it shall be opposed, affronted, resisted, their Summons scorned, their Messengers kick'd about the Streets, and their Votes and Judgments derided. That Freedom but imaginary Freedom, that hath no other than Paper or Parchment Walls at the best to defend it. That the* (3.) *Army or Forces were not to be Disbanded, but when the Two Houses should think it fit and safe, nor so long as it should be thought necessary to keep them up, for the maintaining of privilege of Parliament, the Liberty of the Subject, and Protestant Religion, and for the Parliaments consulting freely and acting securely.*

(1.) p. 68.

(2.) p. 70, 71.

(3.) p. 73, 82.

They term the common People which flocked about the Parliament Doors, and Avenues of the Houses in July Preceding, a (4) Tumultuous Rabble. The Traiterous Engagers and Leviers of a new War, when they petitioned and cryed out for the King to come to London, and for a Personal Treaty; when as such a sort of People, or it may be of a meaner and worse condition in the years 1640 and 1641. were countenanced, encouraged and applauded a long time together by these very Houses, when they cryed out against Bishops, and for Justice, or whatever else they would have them. (5.) They were owned as Friends and well-affected, and their Courage, Zeal, and Industry commended: nor could any Declaration from the Bishops, concerning their Insolencies and Assaults, nor from other Lords or Gentlemen of Honor, nor from the King himself take place, for the due Suppression of those Tumults, and securing their Freedom in Parliament, or Persons in the Streets.

(4.) p. 61, 73, 74.

(5.) *ΕΙΣΗΓΗΤΗΡΙΑ* B277A. C. 4.

They further declare, That (6.) by Defence of the Kings Person and Authority, in the Preservation of the True Religion and Liberties of the Kingdoms, (that is, what they should think or declare to be the True Religion, and the Liberties of the Kingdoms) they meant, that such Religion and Liberties were first to be had and obtained, before any consideration was to be had of the Kings Person and Authority, and no otherwise.

(6.) p. 73.

This long Digression hath been made, to demonstrate, that Designing mens Consciences do vary and change according to the Difference of Times, Emergencies of Things, and the Conditions of Affairs; and that the Heads especially and chief of them, before they enter upon the Method they propound to themselves, do know they must, and do intend, *To promise falsely, protest falsely, vow falsely, Covenant falsely, engage falsely, associate wickedly and falsely, swear falsely, pretend to Religion and Piety falsely, Petition falsely, declare falsely, remonstrate falsely, draw up and publish the State of the Nation falsely, calumniate falsely, asperse the Government, Governors, and Ministers falsely.* That they may Cheat the People, raise Discontents, affright and bring them wholly under their Direction and Guidance, and make them Authors of their own Slavery, while they Usurp an Arbitrary boundless Power and Dominion over them, by

The reason of the Digression

monstrous *Hypocrisie* and *Imposture*, and maintain such *Usurpation* by that *very force* and *Armes*, with which the *Deluded* and *Abused* People at first *furnished* them; and when they have obtained force enough to defend themselves, they will then expound and interpret their own *Declarations*, and put what *meaning* upon them they please, though not reasonably warranted by the *words* themselves.

(7.) Flor. Wigorn. fol. 635. Et Jus Angl. ab antiq. p. 46. The Conqueror's Oath.

But to return to the *Oath* of the *Conqueror*, neither *Pictaviensis*, *Eadmerus*, *Ordericus Vitalis*, *Hen. of Huntingdon*, or *Mat. Paris* do write of any taken by him: *Florence of Worcester* is the first that mentions it, and *Simeon of Durham*, and *Roger Hoveden* transcribed it from him. The words of the *Oath* were, (7.) *Se Velle Sanctas Dei Ecclesias ac Rectores earum Defendere, necnon & cunctum populum, sibi subiectum iuste ac Regali providentia Regere, rectam legem statuere & tenere, Rapinas injustaque Judicia, penitus interdicere.* That is, that he would defend the *Holy Churches* of God, and the *Governors* of them, also that he would Govern all the People subject to him, justly, and with a *Royal Providence*, that he would make and keep right Law, and totally prohibit *Rapines* and unjust Judgments.

* *Arg. Antinorm.* p. 13. & *Jus Angl. ut supra.* (8.) *Malmsh.* fol. 54, b. n. 10

This *Oath* was conceived in general words, and such as were of a great *Latitude*, and he might by the Power and help of his *Sword*, expound or interpret them in almost what sense he pleased, and make them far more easily correspond with his *Actions*, than if it had consisted of many strict *Particulars*. Our Author hath added one * extraordinary necessary Article at that time, as he says, to this *Oath*, which is, *Quod aquo Jure, Anglos & Francos Tractaret.* He hath it out of *Malmshbury*, who relates the *Transaction* thus; (8.) *Exhortatus Aldredus Consecrationem egit, exacto prius coram omni populo Jurejurando, quod se modeste erga subiectos ageret, & aquo Jure Anglos, quo Francos tractaret: Aldred* being exhorted to it, *Crowned William*, first having exacted an *Oath* from him, that he would modestly or moderately behave himself towards his *Subjects*, and that he would treat or rule the *English* and *French* with the same equal Law; which notwithstanding he behaved himself so severity and rigorously toward the *English*, as the old Archbishop *Aldred* (9.) cursed him and his *Progeny* for it, and presently after died with grief. This last part of the *Story* is left out, he well knowing it would have destroyed his whole *Argument* from the *Coronation Oath* of *King William*, as being a pregnant *Testimony* that he never kept it.

(9.) *Ibidem.* Archbishop *Aldred* cursed *King William*.

Arg. Antinorm. p. 18.

Lastly he pretends to *Evidence* demonstrably, that it was not so much *Conquest* that *King William* the First relied upon, when he was settled in this *Imperial Throne*, as his *Claim* to the *Crown* of *England*, *Jure Hereditario*, by Right of *Inheritance*, from some of his own *Charters*, and some of his Son *William's*, and others of *Henry* the First.

(1.) *Review of Tithes*, p. 482, 483.

This *Hereditary Right* was only the *Donation* of *Edward* the Confessor, as Mr. (1.) *Selden* explains it, and there admits and approves it as a lawful Title, from whom our Author had this *Argument*,

ment, and almost all others; and the Conqueror was no more than Epistolary or Testamentary Heir to that King, as appears by what hath been said before concerning his nearness by Blood to the Confessor, and Queen *Emme*; and is farther evidenced from the Charters which he cites, and some others; as in his fourth instance; *Regnum mihi cum providentia Dei destinatum, & Beneficio cognati mei Gloriosi Regis Edwardi Concessum*: The Kingdom designed to him by the Providence of God, and granted to him by the Beneficence of his Glorious Kinsman King *Edward*. In a Charter of Priviledges to *Bury Abbey*, the Conqueror says he was Heir to the Kingdom by *Kinred* and the Gift of King *Edward*, (3.) *Illustris Edwardi, cujus miseratione Domini, genere & Dono in Regno sumus heredes*; in his eighth instance it is yet more clear, where he hath mistaken *Henry* the First, for King *Stephen*, whose Charter of Priviledges to *Westminster Abbey* begins thus; (4.) *Stephanus Dei Gratia Rex Anglorum, &c. Sciatis me pro Redemtionem animæ meæ, & Patris & Matris meæ, necnon & Beata Memoria Regis Edwardi cognati mei; Qui avum meum, liberosque illius in Regnum suum adoptivos heredes instituerat, &c.* from whence it is plain, what his Hereditary Right was, but whether he relied more upon that, than his Sword and Conquest, is left to every indifferent Reader to judge upon what hath been said, and shall be further delivered in the ensuing answer.

In the close of his Answer to this first Question, he saith, (5.) that he hath with a Three-fold Cord, not easily to be snapt asunder, bound hard his Assertion, that *William* came to the Crown by the * Election and consent of the Clergy and People, and that *Fædus Pepigit*, he made a Solemn Covenant with the *English*, to observe and keep those Laws which were *bonæ & approbatæ & antiquæ leges Regni*, the good approved ancient Laws of the Kingdom. Whether he hath twisted such a Cable as he speaks of, is also left to the Readers Judgment.

But what work doth this small Scrap-monger make with these two words, * *Fædus Pepigit*, without mentioning the Author from whence he had them, which I shall cite for him, with the Sentence preceding and following, and give him leave to make his advantage of them, (6.) *Comes Gulielmus, Suchregiam, Middlesexoniam, Hartfordensem provinciam devastabat, & villas cremare, hominesque interficere, non cessabat, donec ad villam Beorcham veniret; Ubi Adeldredus Archiepiscopus, Wolstanus Wigorniensis Episcopus, Clito Edgarus, Comites Edwinus & Morcarus, & de Lundonia quique Nobiles, cum multis aliis ad eum venerunt, & datis obsidibus, illi Deditionem fecerunt, fidelitatemque juraverunt, cum quibus & ipse Fædus Pepigit, & nihilominus exercitui suo, villas Cremare, & Rapinas agere permisit. Appropinquante igitur, Dominica Nativitatis Dominica Festivitate, cum omni exercitu, Lundoniam ut ibi in Regem sublimaretur, adiit. Earl William wasted Surrey, Middlesex and Hartfordshire, burnt Towns and killed Men, until he came to the Town of Beorcham where Aldred the Archbishop, Wulstan Bishop of Worcester, Prince Edgar, the Earls Edwin and Morcar, and the Nobility from London, with many others, came unto him, and having given Hostages, submitted and sware Fealty to him, with whom he entred into Conditions, and granted them terms of*

G g 2

Peace,

The Conqueror had only an Epistolary Right.
(2) p. 19.

(3.) Monast. Angl. vol. 1. f. 1289. n. 50

(4.) Ex Autograph.

(5.) Antinorm. p. 22.

* *Fus Angl. ab Antiq. p. 56, 57, 58.* He kept this as well as the Parliament kept the Solemn League and Covenant

* *Ibid. & Fus Angl. ab Antiq. p. 45, 58.* in margin. (.) *Flor. Wigorn. fol. 634, 635.* The same words in *Simon Dure m. col. 195. n. 30.* Also the same words in *Hoveden, fol. 258. a. lin. 1. & c.*

William's behaviour before he was Crowned, which was done by assistance of his Army.

These words
*bonæ, antiquæ
& approbatæ
leges*, belong
to the Story
of Abbat Fre-
derick of St.
Albans, of
which in the
second Que-
stion.

Peace, and never the less he permitted his Army to burn Towns, and commit Rapine; and *Christmas's* approaching, he went to *London* with all his Army, that he might be made King. Here is no Election, no consent of the People, no Bargain stricken, or Covenant made, to observe and keep the Laws, which were *bonæ & approbatæ leges Regni*, as this Writer falsely insinuates. But on the contrary here is the Submission of the People, the Behaviour of a Conqueror, Hostages taken, Towns burnt, Rapine committed, and he himself made King by the influence of an Army. Thus much for his pitiful Assertions and Arguments, in Answer to his first Question.

A

The Second Question is.

Aniſnorman.
p. 23.

Whether the first *William* did abolish all the *English* Laws, and changed the whole Frame and Constitution of the Government.

B

The State of
the second
Question mi-
staken.

No man that I know, ever made the Affirmative part of this Question his Assertion; he hath here again mistaken the State of it; for it ought to have been put, whether in his Reign and Government he used only the *English* or *Saxon* Laws, and brought in no other, by which he governed the Nation.

C

(7.) Lib. I. c. 29

Gervase of Tilbury is full and clear in this Point; who from *Henry* Bishop of *Winchester*, Brother to King *Stephen*, and Grandchild to the Conqueror, a great Officer in the Exchequer, tells us what Law he established, and by what Law he ruled, (7.) *Cum Insignis subactor Angliæ Rex Gulielmus, ultiores Insula fines suo subjugasset imperio, & Rebellium mentes, terribilibus perdomuisset exemplis, ne libera de cetero daretur erroris facultas, decrevit subiectum sibi populum, Juri scripto, legibusque subicere. Propositis igitur legibus Anglicanis, secundum tripartitam earum distinctionem, hoc est Herchenlage, Denelage, & West-Saxenlage, quasdam reprobat, quasdam autem approbans, Transmarinas Neustrie, i. e. Normanix Leges, que ad Regni pacem tuendam efficacissima videbantur, adiecit.* When the Famous Subduer of *England* King *William*, had subjected to his Empire the utmost parts of the Island, and by terrible examples had brought to perfect obedience the minds of Rebels. That they might not have liberty of falling into the same Errors for the future, he resolved to govern the People subjected to him by written Right and Law. Therefore the *English* Laws being propounded according to their Three-fold Distinction, that is, the *Mercian-Law*, *Dane-Law*, and *West-Saxon-Law*, he rejected some, and approved others, and added such *Transmarine Norman Laws*, as seemed most efficacious, for to defend the Peace of the Kingdom; and as to Matter of Fact, the Reader is referred to the Preface of the *Norman* History, where he will find it fully proved, that the Law used in this Nation after the Conquest, especially as to the Method and Practice of it, was the *Norman* Law, and so remains to this day in very many things.

D

E

F

What Law
William esta-
blished.

But

But that no Cavils may remain unsatisfied, I shall give a particular answer to every thing that is said in this Treatise, and in all others I have met with.

A He begins to (8.) prove the Negative of this Question, by the Authority of Sir Edward Coke, (9.) who says, the Grounds of our Common Laws at this day, are beyond the Memory or Register of any beginning, and the same which the Norman Conqueror found within this Realm. The contrary to this Assertion is made Good against him in the Preface to the Norman History before cited, whither I refer the Reader. But how will he reconcile Sir Edward to Sir Edward, when he says in the same Preface, that Original Writs are the Foundations whereupon the Law dependeth; and I think it will easily be granted, that these are no where to be found before the Conquest, and that they are neither beyond the Register of beginning, nor that the Conqueror found them here. Again in his Preface to his eighth Report, he says that the whole Frame of the antient Common Laws of this Realm do in effect appear in the Mirror of Justices, and that therein may perfectly and truly be discerned the whole Body of the Common Laws of England. Can a Frame or Body be without Grounds or Foundation, and the Frame, Method and Form of most of the Authentick (1.) Laws in that Book was establish'd since the Conquest, and can any one think it was done without Ground or Foundation?

(8.) Antinorman. p. 23.
(9.) Pref. ce to his eighth Report.

The Grounds and Foundation of the Common-Law

(1.) See Preface to the Norman History.

D The next * Proof he brings to make good the Negative of this second Question, is the Title of the Laws attributed to the Conqueror in Selden's Notes upon Eadmer, fol. 173. *Ces sont les lois & les Custumes que li Reis William grantut à tut le peuple de Engleterre, apres le Conquest de la terre; Ice les meismes que le Reis Edward son cousin tint de vant li.* These are the Laws and Customs which King William granted to all the People of England after the Conquest of the Land. The very same which King Edward his Cousin held before him.

* Antinorman. p. 24.

The Title of King Williams Laws.

E This is the Title to the same Laws for which he cites Ingulphus Abbot of Croyland, page 29. and those he brought with him from London to that (2.) Monastery; the Laws of most Just King Edward, which his Lord the Renowned King William would have perpetual and Authentick, and by Proclamation had commanded they should be kept, under most grievous pains, through the whole Kingdom, and had recommended them to his Justices, in the same Language in which they were published, lest it might happen, through ignorance, any one might go contrary to, or by a rash Act offend his Royal Majesty, and so incur the most Rigid Censures contained in them. The words of Ingulph are these, *Attuli eadem vice mecum Londoniis in meum Monasterium Leges aequissimi Regis Edwardi, quas Dominus meus inclitus Rex Willielmus Authenticas esse & perpetuas per totum Regnum Angliæ, inviolabiliter tenendas sub penis Gravissimis proclamavit & suis Justitiariis commendavit, eodem Idiomate quo Editæ sunt; ne*

(2.) Seld. Not. ad Eadm. fol. 172. n. 40. sc. Ingulph. Histor. b. Croyland. fol. 519. b. n. 30, 40.

Ingulph Abbat of Croyland, brought King Williams Laws from London.

per Ignorantiam contingat nos vel nostros aliquando in nostrum grave periculum, contraire & offendere ausu temerario Regiam Majestatem, ac in ejus Censuras Rigidissimas, improvidum pedem ferre contentas sapius in iisdem.

(3.) Ingulph.
Hist. fol. 516.
b. n. 10. 20.
(4.) Little
Doomesday-
Book, f. 450. 2.

Most of them
were Penal
Laws.

(5.) Not. ad
Eadm. fol. 189.
n. 30.

(6.) Lamb. Ar-
chion. fol. 170.

The addition-
al Laws to
King Edwards
for the esta-
blishment of
King William's
Government.
(7.) Lambard.
Arch. fol. 170.
Seld Not. in
Eadm. fol. 190.
n. 10.

These Laws *Ingulph* brought from *London* in the Twentieth, or last year but one of the Conqueror, for at the same time he brought with him a Copy of a Survey of all the Lands belonging to his Monastery, out of (3.) *Doomesday* Roll or Book, which was not finished until that year, as appears at the end of the Description of *Essex*, *Norfolk* and *Suffolk*, (4.) *Anno 1086. ab incarnatione Domini, vicesimo vero Regni Willielmi, facta est ista Descriptio, non tantum per hos tres Comitatus, sed etiam per alios*; and this in a hand as antient as that of the Survey it self is written in; by this it appears, these were only the allowed Laws of King *Edward*; which were permitted to be used, and had the Authority of Law, 'tis not probable he published any other afterward, for within a very small time, he went into *Normandy*, where he died. They were in number Fifty, most Penal Laws, as appears by *Ingulph*, and the Laws themselves, from which he received much profit and advantage from the many and great Mulcts imposed upon the People, for the various Transgressions of them. And the others of small moment, and no ways inconsistent with King *William's* Establishment, most of which were taken out of the *Saxon*, some out of the *Danish* and Feudal Law.

But besides these received from King *Edward*, and published with his Approbation, and by his Command, there were others attributed to King *William*, which Mr. *Selden* subjoyns to the Laws taken from the *Crowland* Copy: (5.) *Atqui Complures alia, vetustis Schedis Gulielmo Regi libata, prater eas Edwardo Regi accepto latas, reperiuntur, quarum hasce subungere visum est, &c.* The very same Laws with small variation, are published by Sir *Roger Twisden*, as he (6.) found them in the Red Book in the Exchequer, which he thought the most Authentick Exemplar, and placeth them likewise immediately after the *Crowland* Copy, published by himself.

Amongst these last mentioned Laws, there are some, which at that time without doubt were thought very efficacious for the Preservation of the Peace, and the Establishment and Government of King *William*, which *Gervase Tilbury* says, were added to the *Saxon* Laws. The first is (7.) Law the 52th. Tit. *De fide & obsequio erga Regem, Statuimus etiam ut omnes liberi homines fadere & Sacramento affirment quod intra & extra Regnum Angliæ, (quod olim vocabatur Regnum Britannia) Willielmo Regi Domino suo fideles esse volunt, Terras & honores illius omni fidelitate servare cum eo & contrare inimicos & alienigenas defendere.* We do appoint and ordain that all Free-men may by League and Oath affirm or make good, that within and without the whole Kingdom of *England*, (which was antiently called the Kingdom of *Britain*) they will be faithful to their Lord *William*, and by their Fealty will preserve his Lands and Honors every where with him, or in his Possession, and defend them against his Enemies and Strangers.

The

The (8.) Second Law is the 55th.

(8.) Ibid. m.

De Clientelari, seu Feudorum Jure, & Ingenuorum immunitate.

A Volumus etiam ac firmiter precipimus, & Concedimus ut omnes liberi homines totius Monarchie Regni nostri predicti, habeant & teneant terras suas, & possessiones suas, bene & in pace, libere ab omni exactione injusta, & ab omni Tallagio, ita quod nihil ab eis exigatur, vel capiatur, nisi serbitium, suum liberum, quod de Jure nobis facere debent, & facere tenentur; & prout Statutum est eis, & illis à nobis Datum, & Concessum jure hereditario imperpetuum per Commune Concilium totius Regni nostri.

B

Of the Feudal Law, and immunity of Free-men.

C We Will and firmly Command, and we Grant, that all Free-men of the whole Monarchy of our Kingdom aforesaid, have and hold their Lands and Possessions, well and in Peace, free from all unjust Exaction and Tallage, so that nothing be exacted or taken from them, but their Free-Service, which of Right they are bound and ought to perform to us, as it was appointed to them, and given by us to them, and Granted in Hereditary Right for ever, by the Common-Council of our Realm.

The Feudal Law of King William.

The (9.) Third Law is the 56th.

(9.) Ibid. & in Lamb. fol. 171.

D

De nocturnis Custodiis.

E Statuimus etiam & firmiter precipimus, ut omnes Civitates & Burgi, & Castella, & Hundredi & Wapentachia, totius Regni nostri predicti, singulis noctibus, vigilantur & Custodiantur in gyrum pro maleficiis, & inimicis, prout Vicecomes & Aldermanni, & propositi & ceteri Ballivi & ministri nostri, melius per Commune Consilium ad utilitatem Regni providebunt.

Of Night-Watches and Guards.

F We Ordain and firmly Command, that all Cities and Burghs, and Castells, Hundreds, and Wapentachs of our whole Kingdom aforesaid, be watched and guarded every night, and the Rounds to be walked, to prevent Mischiefs, and the Contrivance of Enemies, as the Sheriff, Aldermen, Provosts, and our other Bayliffs and Ministers, shall by Common Advice best provide for the profit of the Kingdom.

Cities, Burghs Castles, &c. to be watched and Guarded.

The

(1.) Ibid. & in
Seld. not. & c.
fol. 191. n. 10.

The (1.) Fourth Law is the 58th.

De Clientum seu Vassallorum, praestationibus.

Who the Vas-
sals and Feu-
dataries were.
*See the Glos-
sary in this
word.
Their Service.

*Statuimus etiam & firmiter praecipimus, ut omnes Comites, & Ba-
rones, & Milites, & Serbientes, & universi Liberi homines, to-
tius Regni nostri praedicti habeant & teneant se semper bene in armis
& in equis, ut decet & oportet, & quod sint semper prompti, & bene
parati ad Serbitium suum integrum nobis explendum & peragen-
dum cum semper opus adfuerit, secundum quod nobis debent, de Feodis
& Tenementis suis de Jure facere; & sicut illis statuimus, per Com-
mune Concilium totius Regni nostri praedicti & illis Dedimus & Con-
cessimus in Feodo, jure Hereditario, hoc praeceptum non sit violatum
ullo modo super forisfacturam nostram plenam.*

A

Of the Praestations, or Services of Feudataries or Vassals.

B

The Conque-
rers Feu-datar-
ies or Sub-
feudataries,
were Earls,
Barons,
Knights, and
all Free-men.

We Ordain also and firmly Command, that all Earls, Barons,
Knights, or such as served for them, and all Free-men of our whole
Kingdom, be always fitted with Horse and Arms, as they ought
to be, and always ready to perform their whole Service to us,
when there shall be need, which they ought of Right to do, accord-
ing to, and by Reason of their Fees and Tenures, as we ordained
by the Common Council of our whole Kingdom, and gave and
granted to them in Fee by Hereditary Right. This Command is not
to be any ways violated, upon pain of our full forfeiture.

C

(2.) Ibidem.

The (2.) Fifth Law is the 59th.

Ut Jura Regia illaesa, servare pro viribus conentur, Subditi, the last
word (*Subditi*) is put here in stead of (*liberi homines*) as appears by
the Law it self.

D

The Martial
Duty of the
Free-men or
Feudataries.

*Statuimus etiam & firmiter praecipimus, ut omnes liberi homines
totius Regni praedicti, sint fratres conjurati, ad Monarchiam nostram,
& ad Regnum nostrum, pro viribus suis & facultatibus contra inimicos
pro posse suo defendendum, & viriliter servandum, Pacem & Dig-
nitatem Corona nostra, integram observandam & ad Judicium Rectum
& Justitiam constanter omnibus modis pro posse suo sine Dolo, & sine
Dilatione faciendam.*

E

The Civil Du-
ty of the same.

*That the Free-men do endeavour, with all their Power, to preserve the
Royal Rights from injury.*

We Ordain and firmly Command, that all Free-men of the whole
Kingdom afore said, be sworn Brothers, manfully to preserve and de-
fend our Monarchy, and our Kingdom with their Force and Fortunes
to our utmost of their Power, and to keep intire the Peace and Dig-
nity of our Crown, and to give right Judgment, and to do Justice by
all ways and means, according to their Power and Ability, without
Fraud and Delay.

F

The

The Sixth (3.) Law is the 64th Law.

(3.) Ibid. Seld.
fol. 192. &
Lamb. fol. 177.

De Justitiæ publicæ fide-jussoribus.

A *Omnis homo qui voluerit se teneri pro libero sit in Plegio, ut Plegius eum habeat ad Justiciam si quod offenderit, & si quispiam evaserit, talium videant Plegii, ut solvant quod calumniatum est, & purgent se quia in evaso nullam fraudem noverint.*

The Borh-Law, or Law of Pledges or Sureties.

B Every man that will be holden for a Free-man, let him be with-
in a Pledge or Decury, and let his Sureties or Pledges bring him to
Justice if he hath offended, and if any man escapes or flies, let them
look to the Debt or Mulct, and pay what is claimed, and purge
themselves by Oath, that they knew no Fraud or Falsehood in him
that escaped. These were the (4.) lowest and ordinary sort of
Free-men that were thus bound to their good Behaviour, and
though it was a Saxon Law, yet in the Circumstances the En-
glisb were in, at that time under hard Masters, it could be no
C advantageous or profitable Law to them; and this causeth me to
cite the next Law, and for that our Author often makes use of the
latter part of it.

The Law of
Pledges, or
Borh-Law.

(4.) See the
Glossary in
verb. liberi ho-
mines.

The Seventh and last (5.) Law is the 63^d Law; the others are
only Penal, and Laws of Purgation.

(5.) Lamb. &
Seld. ut supra.

Firmantur Leges Edwardi.

D *Hoc quoque precipimus, ut omnes habeant & teneant Legem Ed-
wardi Regis in omnibus Rebus, adauxis his, quas constituimus ad uti-
litatem Anglozum.*

E Hence our Author (6.) infers, that these Additional Laws were
made for the Benefit and Advantage of the Englisb Saxons, and not
the Norman-Englisb. But I affirm these Laws were made five of
them, as most efficacious for the securing the Peace of the then
Government, which was in consequence only for the advantage of
the Normans, and could not be so for the Saxons, and one other di-
rectly and fundamentally of the greatest Benefit to the Norman Mi-
litary Possessors, or Free-men that could be, though it be said here,
ad utilitatem Anglozum, for the profit of the Englisb.

(6.) Antinorm.
p. 24. p. 30. p. 55
p. 58.

These Laws
made for the
Benefit of the
Norman not
Saxon Englisb.

F First I refer the Reader to the Glossary, for the frequent meaning
of the Words, Angli, and Anglici, Franci, &c. in the old Histories,
and old Norman Grants, Writs, and Charters, and then let him
consider the meaning and intention of these Additional Laws,
(as they are called) both here, and in Gervase of Tilbury, before
cited.

The first is the Oath of Allegiance to King William: The fifth here cited is nothing but a further and clear Explanation and Confirmation of the first, That all Freemen of the whole Kingdom, should be sworn Brothers, to defend King Williams Monarchy, and his Kingdom according to their power and faculties, or fortunes, against his Enemies, and to preserve intire the peace and dignity of his Crown, &c.

Now let us see who they were that swore and were obliged to do this; they were Earls, Barons, Knights, Esquires, and all the Freemen of the whole Kingdom, who were always to be ready, fitted and prepared with Horse and Arms, according to their Fees and Tenements which were given them to that purpose by the Conqueror, and by the consent of the Common Council of his whole Kingdom in fee by Hereditary Right, as appears by the fourth Law here mentioned. Now when the Author of this Argument can make it appear, that William Erected new Earldoms, Baronies, Knights Fees and Services here, and by the Advice and Consent of the Common Council of the Kingdom, granted Lands of Inheritance to support and maintain them, and then gave them to the English Saxons, I shall agree these three Laws were made for their Profit. A
B

And when he can make it appear, that the Watches and Guards set and placed in Cities, Burghs, Castles, Hundreds, and Wapentakes, consisted of English Saxons, and that his Sheriffs, Aldermen, Provosts, and other Bayliffs and Ministers that were to Consult how to set and place them to the Advantage of the Kingdom, were English Saxons, I will likewise grant that this third, and also the sixth Law here noted concerning free pledges and their behaviour, were made for their Advantage. C

(7.) Page 84.
p. 110.
King Williams
Magna Charta,
what it was.

But what shall we say to King Williams (7.) Magna Charta made and granted to the English Saxons? contained in the second Law here Transcribed; Why, it was the same King, and the same Common Council of the whole Kingdom, that gave Hereditary Lands to all the Freemen of the whole Kingdom to support and maintain their Military Services in the fourth Law, that granted to all the Freemen of the whole Kingdom in the second Law to hold their Lands and Possessions well and in peace, free from all unjust Exactions and Tallage by Hereditary Right for ever. And therefore, we say, that all the Freemen of the whole Kingdom in the fourth Law, and all the Freemen of the whole Kingdom in the second Law, were the same Persons; that is, such as held their Lands by Knights Service and English-Normans. That these were both Feudal Laws, their Titles do sufficiently prove; and that they were granted to his Feudatories or Vassals, King Williams Direction of them is a clear Testimony. D
E

(8.) See Gloss.
far. in the
word Homo.

(9.) Lambard,
f. 170.

Willielmus Dei Gracia Rex Anglorum, Dux Normannorum, omnibus (8.) hominibus suis Francie & Anglie salutem. If his Men or Vassals of France had no Interest, nor nothing to do in England, how could the English Laws affect them? for the Resolution of this Point, see the words Franci & Angli, &c. in the Glossary; 'Tis in Sir Roger Twysdens Copy, (9.) Omnibus hominibus suis Francis & Anglis salutem, which makes no difference, as to the sense and meaning of the words For the further explication and understanding of these Laws, F

Laws, see the Answer to Mr. Petyt, fol. 17. E. &c. and the Glossary in the words *liberi Homines*, &c.

From the Title of King Williams Laws, he proceeds to the confirmation of them, and patches up a pretty (1.) Tale from four different Stories (which have no dependency one upon another) to acquaint us with it (as he says) in all the necessary particulars.

Antinorm.
p. 25.

A

William the First (quoth he) (2.) with his French and Normans, putting many hardships upon the English, which occasioned great Disorders and Convulsions in the State, several of the Saxons chief Nobility betook themselves to Arms, for the sake of their *avita Consuetudines*, to which they bore an immutable and immortal Love, and which they feared some were endeavouring to take away, and change them; though on the other hand they were obstinately resolved never to part from them, for they had (3.) *à Majritus didicisse*

(2.) Ibidem.

B

aut Libertatem, aut Mortem, and they would rather undergo the worst Calamities of a Cruel War, than they would tamely quit and abandon those dear Laws and Customs to which they had so long been used; for this Story he cites (4.) Seldens Titles of Honour, fol. 523. who relates it out of Malmsbury, and tells it of a Quarrel between the Northumbrians and their Earl Tosti, some years before the Conquest; And it was thus, (5.) King Edward after the death of Siward made Tostin Earl of Northumberland, who by his rough temper forced the People into Rebellion, and finding him without an Army drove him out of the Country, killed his Men or Vassals, both Danes and English, seizing upon their Horse and Arms, and all their Goods; which being reported to the King, he sent Harold to chastise them. The Northumbrians though not inferior in number, consulting their own quiet, excuse the Fact, saying, *Se homines libere Natos, libere Educatos, nullus Ducis ferociam pati posse, à Majritus didicisse*

(3.) Ibidem,
p. 26.

(4.) Ibidem.

C

aut libertatem aut mortem, and if the King would have them obedient, he should send Morchar the Son of Algar for their Earl. Harold considering the peace of the Country, more than the profit of his Brother, withdrew his Army, and coming to the King, fixed Morchar in the Earldom.

(5.) Malmsb.
f. 46. b. n. 10.

The Story of
Earl Tosti and
the Northumbrians.

D

Upon this Fundamental Story, as he himself hath told it, he builds his following Discourse, and proceeds in these words. (6.) The King hereupon, to keep the People in a greater observance of their Duty, and withal not forgetting the Oath he had taken at his Coronation, caused twelve of the most Discreet and Wise Men in every Shire throughout all England to take an Oath before himself to deal sincerely and uprightly without turning either *ad dextram*, or *sinistram*, that is, neither to flatter Prerogative or extend Privilege, and to declare and lay open the Constitutions of their Laws and Customs, without concealing, adding, or in any sort varying from the Truth. Thus far Sir Edwards Citation out of Litchfields Chronicle, and his Explication of it, and here he leaves him, and applies himself to the Story as 'tis to be found in Lambards Laws, fol. 149. and gives the (7.) Sum of it. That the English vehemently beseeched King William, that they might retain their own Laws, and old Customs, in which their Fathers lived, and they were born and bred up in. He (8.) finding there was no Remedy, though he was long Resolute,

(6.) Antinorm.
p. 26. and Sir
Edm. Cokes
Preface to the
Eighth Report,
out of
Litch Chron.

E

He (8.) finding there was no Remedy, though he was long Resolute,

(7.) Antinorm.
p. 27.

F

He (8.) finding there was no Remedy, though he was long Resolute,

(8.) Ibid. p.
28. This is his
own, no such
thing in the
Litch Chron.
or in King Ed.
Laws. Tit. lex
Nor. nor in
Hoveden.

(9.) Preface to the Eighth Report.

(1.) *Ibid.* the very next words.

'Tis very much to be suspected by what Sir Ed. Coke says here, that he never saw either *Litchfield Book*, or *Ingulph's Copy* of King Edwards Laws.
(2.) *Antinorm* p. 29.

King William never confirmed the Laws in *Litchfield Chronicle*.

(3.) *Not. ad Eadm. fol. 171.*

n. 40, 50.

(4.) *Col. 2354.*

n. 60.

(5.) *Fol. 343.*

a. n. 10.

at last in a *Common Council* of his Kingdom yields, and by his *Magna Charta*, the ground work of all those that after followed he confirmed to them their ancient Laws; Here he is in with Sir Edward again, but mangles him, (9.) for he affirms, that *Ingulph* saith, the Laws in *Litchfield Chronicle* were by publick Proclamation declared Authentick, and for ever, under grievous Punishment, to be inviolably observed. The (1.) *Sum* of which, composed by King William into a *Magna Charta*, (the ground work of all those that after followed) he blessed with the Seal of Security, and *Wish* of Eternity, closing it up with this general, *And we further Command that all Men keep and observe duely the Laws of King Edward*. After this he passeth on with Sir Edwards Citation, in his own words, until he comes himself to the Testimony of *Ingulph*, which he also produceth to prove, that the Laws in the *Litchfield Book* were proclaimed as Authentick and to be observed, immediately after his Citation of Sir Edward and the *Litchfield Book*, saying, (2.) *Ingulphus Secretary* to William in *Normandy*, and afterwards made *Abbat* of *Crowland* by him, is an *unexceptionable* Witness, to prove that the *English Laws* were then anew confirmed, and so goes on with his Testimony as I have before Transcribed it; and adds after it, that *this Proclamation* was not all (to allay the Storms which perhaps the violation of these Laws had raised) and cites *Mat. Paris* in the lives of the Abbats of *St. Albans*, fol. 48. that King William swore upon all the Reliques of that Church, touching the holy Gospel, *Abbat Frederic* administering the Oath, inviolably to keep the good and approved old Laws of the Realm, which the Holy and Pious Kings of *England* his Ancestors, and especially King Edward set forth.

Before we can come to his Fragment out of *Matth. Paris*, we must remark upon the *Litchfield Story* antecedent to the Laws themselves, first, that 'tis to be found in *Hoveden*, but not intire, part in fol. 343. a. n. 10. and part in fol. 346. b. n. 50. and fol. 347. a. n. 10, 20. in *Edw.* the Confessors Law, also in *Lambard*, fol. 138. c. 1. and in fol. 149. *Tit. lex Noricorum*, it is to be found in two parts, which put together do intirely make up that Preface. Secondly, That our Author hath omitted the date of, or time when William granted these Laws, which *Hoveden*, the *Litchfield Book*, and *Edward* the Confessors Laws say was, *Anno quarto Regni sui*, in the fourth year of his Reign. Thirdly, That *Ingulph* says they were the Laws which he brought with him from London in the twentieth year of King William, that he had by Proclamation caused to be observed. Fourthly, That these were not the Laws contained in the Book of *Litchfield*, which Mr. (3.) *Selden* says were only part of those Laws that are published in *Hoveden*, and that this part is to be found in (4.) *Hen. de Knighton*; and whoever will take the pains to compare them with those in (5.) *Hoveden*, he will find they contain but the first fifteen Titles or Chapters, and are the very same also with the first fifteen Chapters of those Laws printed in *Lambard*, under the name and title of King Edwards Laws, and both in *Hoveden* and *Lambard*, the Laws are near thrice the number of these in *Knighton*, nor are they, and the Laws in *Crowland Copy*, scarce in any Points or Chapters alike. Fifthly, And that therefore this Testimony of *Ingulph* cannot be brought by our Author, or any Man else, to prove the Grant or Confirmation of King Edwards Laws, as they are to be found in the

the Books above mentioned ; it having not the least Reference to them, nor is it probable that ever *Ingulph* heard of them, or that King *William* ever caused Proclamation to be made, that those Laws should be observed.

A Mr. *Selden* doth not only tell us what the *Laws* were in the *Litchfield* Manuscripts, but writes very (6.) suspiciously of all the Laws that are attributed to King *Edward*, except the *Crowland* Copy, and says their *Credit* is *suspicious*, that would obtrude upon us other Laws than those for King *Edwards*, and that 'tis very likely there was made but one *Review* and *Confirmation* of his *Laws* by King *William*; and if there were any more than one, yet the last was only to be allowed and esteemed Authentick, which was *Crowland* Copy.

(6.) *Not. ad Edm. f. 172. n. 10, 20. Crowland Copy the only Authentick Copy of King Edwards Laws confirmed by King William.*

B After this we come to the *Story* of *Abbat* (7.) *Frederic* in *Mat. Paris*, which concludes the *Tale* of the *Confirmation* of King *Edwards* *Laws* by King *William*; as his constant manner is, our Author gives us but a *shred* of it, yet I think 'tis as much as Sir *Edward Coke* mentions of it, and the same words only. The whole is thus. King (8.) *William* armed with his own and the *Papal* Power, began to deal more severely with the *English*, and they seeing their *Lives* lie at stake, conspiring together, raise a numerous *Army*, and meeting at *Berkhamstede*, placed *Edward Ethelinge* at the Head of them. The great Promoter of this Design was *Frederic* then *Abbat* of *St. Albans*, but by the Ecclesiastical Power and Mediation of *Arch-Bishop Lanfranc*, after much Debate he obtained of *William*, (who vehemently feared, he might lose the Kingdom he had gotten with so great Effusion of Blood) to Swear upon the Holy Gospels, and the Reliques of the Church of *St. Albans*, That for the good of Peace, he would observe the good, and approved, ancient *Laws* of the Kingdom, which the Pious Kings of England, and especially King *Edward* had inviolably observed. *Frederic* administering the Oath, with which they were all satisfied, and returned to their own homes.

(7.) *Arg. Antinorm. p. 30. Cokes Preface to the Eighth Report.*

Fus Angl. antiquo, p. 139, 148.

(8.) *Mat. Paris, f. 48. n. 20, 30, 40. The Story of Frederic Abbat of St. Albans.*

The English would have made Edward Etheling King.

E But he craftily concealing his Intentions, within a few days privily and suddenly surprized them when single and dispersed, who being united in a Body, he could not overcome; many he put to death, from others he took their Estates, and very many he Banished, violating the Law he had sworn to observe, taking away their Estates at his own pleasure, without judicial proceedings, thereby impoverishing the *Natural* English, and enriching his *Normans*.

William violates his Oath, destroys the English, and takes away their Estates.

F *Edward Etheling* (9.) fled into *Scotland*, many of the *Noble* English fled into *Denmark*, and some into *Norway*, being no way willing to submit to the Yoke of *Norman* Servitude. (1.) *Abbat Frederic* mightily fearing lest the King or his *Lanfranc* should take notice of him, as the chief Encourager of the English, and so either put him to death, or keep him in Prison, by leave and advice of his Convent took with him some Books and other Necessaries, and fled privately into the Isle of *Ely*, where after some short time, he grew very infirm and died, after whose death *William* kept the Monastery of *St. Albans* in his own hands, cutting down the Woods and impoverishing the Tenants; and unless he had been restrained by the corrections of *Lanfranc*, had irrecoverably destroyed the whole Monastery, who at length

(9.) *Ibidem. Edward Etheling and the English fly.*

(1.) *Ibid. f. 49. lin. 4. n. 10, 20. ne Rex vel suus Lanfrancus.*

Abbat Frederic flies into the Isle of Ely and dies.

(2.) Ib. n. 30.

(3.) Ibidem.

(4.) Ibidem.

(5.) Ibidem.

England
wholly sub-
dued by the
Normans.

(6.) Arg. An-
tinorm. p. 30.

* Arg. Anti-
norm. p. 31.
His ridiculous
Exposition of
the word Con-
questus.
(7.) Cragius de
feud. f. 55.

(8.) Ib. f. 242.

(9.) Skene in
verbo Con-
questus.

(1.) Text.
Roffen. cited
by Seld. in
Not. ad Eadm.
f. 197. n. 40.

(2.) Text. Roff.
p. 168. Malmfb.
f. 133. a. n. 10.
Godw. p.

length procured his *Kinsman Paul* a Monk of Caen-in Normandy, that he had brought over with him, to be made Abbat, (2.) on the Twenty eighth of June 1077. in the Eleventh year of King William the (3.) Conqueror, (4.) *Hic fuit primus Abbas hujus Ecclesie, postquam Anglia Normannis fuit* (5.) *penitus subjugata*. This was the first Abbat of this Church after England was wholly subdued by, or put under the Yoke of the Normans.

After the Reader hath considered what a miserable Story he hath patcht up out of fragments partially cited, concerning the Confirmation of Edwards Laws, he will be able to judge whether there be any reason for his *Triumphal Conclusion* of it, in the very next words after. Thus (6.) we see (quoth he) the mighty Conqueror Conquered, and solemnly renouncing all Arbitrary Will and Power, submits his Will to be regulated and governed by Justice, and the ancient Rights of the English: 'Tis presumed before his second Triumph, or the second Edition of his idle Frontispice, with the Explanation of it, or of the Romantick Poetry to the Learned Author, he will make it appear, that King William kept all his Oaths and Promises he made at his Coronation, and at all other times, and that the Natural or Saxon-English really and truly enjoyed the benefit of them.

After this Story of the Confirmation of King Edwards Laws, * he harps upon the signification of the word *Conquestus*, and would have it signifie Purchase, as it doth in the Feudal Law, *Antiquum* (7.) *feudum id dicitur, in quo quis patri, avo, vel alicui Majorum succedit, Novum dicitur Quod in persona ejus, qui primus illud acquisivit initium Capit, nec ex successione majorum provenit, Scoti Conquestum, Angli purchase vocant*. It is said to be an Ancient Fee, in which any one succeeds his Father, Grandfather, or any of his Ancestors. A new Fee is that which takes beginning in the person of him that first bought or had it, and which was not from the succession of Ancestors. The Scots call this Conquest, the English Purchase. Again *Antiquum* (8.) *Feudum hereditas, novum Conquestus, dicitur ab Anglis, & Normannis Pourches*. An Ancient Fee is called an Inheritance; a new one Conquest; The English and Normans call it Pourches, from the first Purchaser or Conqueror, for when 'tis (9.) transmitted to his Heir, it then becomes an Inheritance. This is the meaning of the word in private Cases, and in private Estates or Fees, but it cannot be with any colour referred to a Kingdom that was subdued by force. He is desired to let us know of whom William purchased this Nation, and what he gave for it.

The *Textus Roffensis* gives us in our present Case the true meaning of the word in the beginning of the Relation of the Plea at Pinenenden, between Arch-Bishop Lanfranc and Odo Bishop of Bayeux, (1.) *Tempore Magni Regis Willielmi qui Anglicum Regnum armis Conquistavit, & suis ditionibus subjugavit, Contigit, &c.* In the time of great King William that Conquered England by Arms, and brought it under his Yoke and Dominion, it happened, &c. We may with other Circumstances believe and rely upon this, as the most true sense of the word *Conquestus* in this Case, and think that the French Monk Ernulph that wrote it, who was (2.) Consecrated Bishop of Rochester in the year 1115. not fifty years after William was possessed of

of the Kingdom, understood the meaning of it, better than such as wrote two, three, four, or five hundred years after him, or Men of yesterday.

A This is a *sufficient Answer* to what he brings out of Sir Henry Spleman, and Sir John Skene upon this word; but still there is a notable Authority behind which he fetcheth from (3.) *Mat. Paris*, f. 941. n. 40, 50. his words out of that Historian are these; *Rex Anglia ex Conquestu, dicitur tamen quod beatus Edwardus, eo quod hærede Caruit, Regnum legavit Willielmo Bastardo, Duci Normannorum.* He makes no inference from these words, nor indeed can he, to his advantage; and if he had not concealed what went before, and what followed them, any Man might wonder why he cited this place to justify his Exposition of the word *Conquestus*.

(3.) Arg. Antinorm. p. 1.

B *Paris*, reckoning up the Ecclesiastick and Lay Peers of France, says *Dux Normanniæ, primus inter laicos & dignissimus: Rex Angliæ, Dux est de Jure Normanniæ, Sanguinis derivatione geniali; Rex ex Conquestu, dicitur tamen, quod beatus Edwardus eo quod hærede Caruit, Regnum legavit Willielmo Bastardo Duci Norrmannorum. Sed hoc robore asseritur Carnisse; quia hoc fecit in lecto lethali, & sine Baronagii sui Comuni assensu.* That is, the Duke of Normandy the first, and most worthy of the Lay Peers. The King of England is Duke of Normandy by Right of Blood, King by Conquest; yet 'tis said that St. Edward, because he wanted an Heir, bequeathed the Kingdom to William the Bastard Duke of Normans. But 'tis affirmed this wanted Strength, for that he did it in his Death Bed, and without the common assent of his Baronage. Whosoever considers the word *Conquest* in this place, as it stands in opposition, both to Right by Blood, and Right by Donation, and as it refers to King Williams obtaining the Kingdom of England, cannot interpret it otherwise, than that it was a *Conquest by Arms*. Therefore this Authority is directly against him, but 'tis used according to his common understanding.

His Partial Citation of *Mat. Paris*.

Lastly, Considering that his interpretation of the word *Conquestus* might yet remain dark and obscure, for the better, (4.) illustration of it, to disabuse the World in this point, he gives the Gentleman for whose satisfaction he wrote this Discourse, a summary Series of the Stiles of the several descendent Kings, from William the First, inclusively to Edward the Third, which are only, *Willielmus Rex Anglorum, Willielmus Rufus Rex Anglorum, Stephanus Rex Anglorum, Richardus Rex Angliæ, Johannes Rex Angliæ, Dominus Hiberniæ, Hen. filius Johannis Rex Angliæ, Edwardus Rex Angliæ, Edwardus filius Edwardi Rex Angliæ, Edwardus Rex Angliæ tertius post Conquestum.* This is his summary Series, and if it be well observed, 'tis a notable Illustration of his Exposition of the word *Conquestus* in his sense, that eight or nine Kings after him, and King William himself, stiled themselves sometimes, Kings of the English, and sometimes Kings of England, and that in this case it signifies only Purchase and not *Conquest* by Arms.

(4.) Arg. Antinorm. p. 34, 35, 36.

His impertinent use of the Stiles of the English Kings.

F For a further (5.) proof, that King William did not cancel and abolish all the English Laws, (when no Man asserts that he did) nor change, as is so much affirmed, the whole Frame and Constitution of the

(5.) Arg. Antinorm. p. 37.

(5.) *Pag.* 482, 483, 484. the Government, he shewds himself under the Judgment of Mr. Seld.n, and the Opinion of Sir Winston Church-hill, such unquestionable Authorities (he says) as may sufficiently ballance, if not totally depress the fiercest of Gainlayers. He begins with Mr. Seldens Discourse upon this Controversie in his (6.) Review of the History of Tithes, which is retailed and vented in parcels over and over again in this Discourse, Mr. Petyts Ancient Rights of the Commons Asserted, and all that treat upon this Subject, and therefore I shall give no other Answer to it, than what the Reader may find to the several Particulars of it, in this Answer, and in that to Mr. Petyts Book just before mentioned. And as to what the very Worthy and Learned Gentleman Sir Winston Church-hill hath said, he is yet living, and is best able to explain his own meaning.

A

(7.) *Arg. Antinom.* p. 54.
(8.) *Fol.* 650.

The next (7.) proof he brings, that the Natives had their Laws continued to them, is the Authority of (8.) Florence of Worcester in these words, *Henricus primus omnes malas Consuetudines, & injustas Exactiones, quibus Regnum Angliæ injuste opprimebatur, abstulit, pacem firmam in toto suo Regno posuit, & teneri præcepit. Legem Regis Edwardi omnibus in Comuni reddit, cum illis Emendationibus, quibus pater suus illam Emendavit.*

B

(9.) Preface to the Eighth Report.

Henry the First took away all ill Customs and unjust Exactions, with which the Kingdom of England was oppressed, and settled a firm Peace in the Nation, and Commanded it should be kept; He restored the Law of King Edward to all in common, with those Emendations with which his Father had mended it; or as Sir Edw. Coke (9.) says, with those amendments which his Father added by the advice of his Barons.

C

(1.) *Fol.* 268. b. n. 10.

(2.) *Inst.* 4. f. 193.

Sir Edward Cokes mangling of Henry the First his Charter.

In that Preface Sir Ed. cites Hoveden, whose (1.) words are the same with those of Flor. of Worcester, and insists much upon it there, That Henry the First did restore to the English their Laws and Customs, and abolished all Evil Customs; and elsewhere he (2) says the good King Henry the First, Son of the Conqueror finding that the Wardship of the Body and Lands of his Tenents by Knight Service, exacted by his Father, was both grievous and unjust, by his Great Charter, Anno Regni sui primo, Reciting, *quod Regnum suum oppressum erat, injustis exactionibus, &c.* (and particularly tempore patris sui) did grant (amongst other things) *Quod si Uxor cum liberis remanserit, dotem suam & Maritagium habebit, dum corpus suum legitime servabit, & eam non dabit nisi secundum velle suum, & terra & liberorum Custos erit, sive uxor, sive alius propinquior, &c.* To be short, by that Golden Charter, *omnes malas Consuetudines, quibus Regnum Angliæ injuste opprimebatur inde abstulit, & legem Regis Edwardi reddidit.*

D

E

He makes short work with it.

This great Man makes short work with a great Golden Charter, but it must not pass so, lest it be upon the making another Discourse such as this, returned in fragments; and it's necessary something be said of the occasion of it, before we inquire into the nature of the Charter it self.

F

This

This *Henry* was a *meer Usurper*, the youngest Son of *William* the Conqueror, his eldest Brother *Robert* Duke of *Normandy* then alive, and gone in an (3.) *Expedition* to the Holy Land, and being upon his (4.) return, he made what haste he could to make himself King, before it should be known to the Nobility, his Brother was safe and returning home; and as a means to accomplish his purpose, (5.) immediately sent upon the death of his Brother *William Rufus*, his *Edict* through *England*, and prohibited the unjust Institutions of him and *Ranulph* Bishop of *Durham*, the great Oppressor of the People under him.

Henry the First an Usurper.
(3.) *Paris*, f. 55. n.
(4.) *Ibid* his Policy.
(5.) *Ibidem*.

After which calling together (6.) the Clergy, and People or Laity, at *London*, and promising to them the amendment of the Laws, by which in his *Fathers* and *Brothers* time the Nation had been oppressed, he so reconciled the minds of all to him, that they received him as their King and Patron, who on the day of his (7.) Coronation, granted them this *Charter* (and would have granted any thing else without doubt rather than not have been King) under his *Seal*, and divulged it to be kept as a *Monument* through the whole Kingdom; or as (8.) *Mat. Paris*, to be preserved as a *Monument* in the *Abbies* of every County. The *Charter* it self here follows.

(6.) *Paris*, *Ibidem*.

(7.) *Eadm.* f. 55. n. 40.

(8.) *Fol.* 56. n. 30.

Henricus (9.) *Dei Gratia Rex Anglia* * *Hugoni de Bocland vicecomiti, & omnibus fidelibus suis tam Francis, quam Anglis in Herefordshire salutem. Sciatis me Dei misericordia, & Comuni Consilio Bar. num Regni Anglia Regem esse Coronatum, & quia Regnum fuit Oppressum injustis Exactionibus, ego Respectu Dei & Amore quem erga vos omnes habeo, Sanctam Dei Ecclesiam liberam facio, Ita Quod nec eam vendam, nec ad firmam ponam, nec mortuo Archiepiscopo vel Episcopo vel Abbate aliquid accipiam de Domino Ecclesia, vel de hominibus, donec successor in eam ingrediatur. Et omnes malas Consuetudines, quibus Regnum Anglia injuste opprimebatur, inde aufero quas Malas Consuetudines in parte hic pono.*

The Charter of *Henry* the First.
(9.) *Ibid* f. 55. n. 40.
* *Hugh de Bocland* was a Norman, and a mean Person preferred by King *Hen.* Order. vii. f. 805. B.

Sanctam Dei Ecclesiam liberam facio ita quod nec eam vendam, &c. Here he explains himself, what he meant by making the Church free, *Rufus* by his Instrument *Ranulph* aforesaid, contrary to Ecclesiastical Right, (1.) when Bishops and Abbats died, sold Bishopricks or *Abbies* to those would give most for them, or let them to farm, and by that means every year brought him in a great Sum of Money, and at the time he was slain, he had in his hand (2.) the Arch-Bishoprick of *Canterbury*, and the Bishoprick of *Winchester*, and *Salisbury*. *Nec mortuo Archiepiscopo vel Episcopo vel Abbate aliquid accipiam, &c.* Neither upon the death of an Arch-Bishop, Bishop, or Abbat, will I take any thing of the Fee, Royalty, or *Demeasus* of the Church, (Lands which the Bishops and Abbats kept in their own hands) nor of their Men; (that is, their Tenents, Vassals, or Usufructuaries) until a Successor be placed in it.

Ranulph Bishop of *Durham*, *Rufus* his Instrument.
(1.) *Fior. Wigorn.* f. 649.

(2.) *Ibid.* 650.

Et omnes Malas Consuetudines, &c. These ill Customs with which the Kingdom was oppressed were since the Conquest, for of the Laws or Taxes or Customs before that time, the Monks that wrote the History of those times complain not; Therefore the ill Customs here to be amended grew in his *Fathers* and *Brothers* Reigns; and by what

(3.) Lamb. f.
170.

Customs in
this Charter
are Payments
or Exactions.

This Para-
graph a Re-
laxation of
the Rigor of
the Feudal
Law.

follows in this Charter, it may be easily conjectured, they were chiefly, if not *only*, the *not allowance*, or *observation* of the 55th Feudal and Additional Law of the Conqueror to those of Edward the Confessor, in which it was provided they should hold their Lands well and in peace, free from all unjust Exaction, and all Tallage. The ill Customs here meant were therefore the Exactions and Usages of his Father and Brother, and they could be no other as is evident by the words immediately following, (*Quas Malas Consuetudines hic in parte pono.*) This Charter being for the most part a Relaxation and Abatement of Feudal Impositions almost every where in all Nations of Europe, according to that Law allowed and practised.

Si quis Baronum meorum Comitum vel aliorum, qui de me Tenent, Mortuus fuerit, heres suus non redimet Terram suam sicut facere Consuevit tempore patris mei, sed iusta & legitima Relevatione relevabit eam, similiter & homines Baronum meorum legitima & iusta Relevatione Relevabunt terras suas, de Dominis suis. Et si quis Baronum, vel aliorum hominum meorum, filiam suam tradere voluit, sive sororem sive neptem, sive Cognatam, mecum inde loquatur, sed neque ego aliquid de suo, pro hac licentia accipiam, neque defendam ei Quin eam det, Excepto, si eam dare voluerit inimico meo, & si mortuo Barone vel alio homine meo filia heres remanserit, dabo illam cum Consilio Baronum meorum cum terra sua, & si mortuo marito uxor ejus remanserit, & sine liberis fuerit, dotem suam, aut Maritagium habebit, & eam non dabo marito, nisi secundum velle suum, si vero uxor cum liberis remanserit, dotem suam & Maritagium habebit, dum Corpus suum legitime servabit; Et eam non dabo, nisi secundum velle suum. Et terra liberorum Custos erit, sive uxor, sive alius propinquior, qui iustus esse debet, & precipio ut homines mei, similiter se Contineant, erga filios & filias, & uxores hominum suorum.

This Paragraph, and indeed the whole Charter, is only a Relaxation of the Feudal Law used at this time in Germany, France, Normandy, Italy, and all the European Nations, as any that ever heard of, though he hath not thoroughly read them, must acknowledge; and it's evident this Charter was not a Declaration or Restitution of any old Laws or Customs, but a meer Relaxation or Abatement of the Feudal Norman Law, practised by his Father and Brother, in exacting great Reliefs, and concerning the Wardship of Orphans, and disposing of them, and Widows in Marriage. If Relief, Wardship, and Marriage, be three necessary Consequences, and undoubted Marks of Feudal Tenure, (as I think no body can deny it) then was this Paragraph undoubtedly, only a making easie those three main Consequences of such Estates, and granted by an Usurper that was to deny nothing.

Monetagium Comune quod capiebatur, per civitates vel comitatus quod non fuit tempore Edwardi Regis, (that is, which only was in the time of his Father and Brother) hoc ne amodo fiet omnino defendo (I altogether forbid.)

(4.) Grand.
Cust. c. 15.
Monetagium
taken of, and
what it was.

Monetagium here, (4.) Moneage in Normandy, was an Aid or Duty paid to the Duke of Normandy once in three years, that he should cause, or suffer the current Money of Normandy to be changed.

changed. Which was paid by all in *Normandy* that had Moveables, or Rents of such a value, and had Residence or a Fire Hearth there; except the Clergy, Chevaliers, or Tenents in Military Service, and their Children by their Lawful Wives, and others there excepted. 'Tis probable this Imposition was brought into *England* by his Father, and continued by his Brother, and laid upon Military and Clergy Men as well as others, and was taken off by this Clause of the Charter.

A

Omnia Placita & omnia Debita, Quæ Regi fratri meo debebantur, Condoneo, exceptis firmis meis, & exceptis illis quæ facta erant pro aliorum hereditatibus, vel pro illis rebus quæ justitiis aliis contingebant; Et si Quis aliquid pro hereditate sua pepigerit, illud Condoneo & omnes Relevationes, quæ pro rectis hereditatibus pactæ erant.

He Pardons all Debts in the Exchequer and Punishments due to his Brother.

B

Placita here signifies Penalties, Mulcts, or Emendations, according to (5.) *Gervase of Tilbury*, or the Black Book in the Exchequer. *Placita autem dicimus penas pecuniarias, in quas incidunt delinquentes.* See *Leges Hen. 1. c. 12, 13.* Hence 'twas said anciently, *Comes habet tertium denarium placitorum*, that is, the third part of the Money due upon Mulcts, Fines, or Punishments, as well as other Profits of Pleas.

(5.) *Lib. 2. Tit. 13.*

Placita signifies Mulcts.

Of which the Earl had the third part.

C

Si quis Baronum vel hominum meorum infirmabitur, sicut ipse dabit, vel dare disposuit, pecuniam suam, (that is, his Goods and Moveables) ita datam esse volo. If any of my Barons or Vassals fall sick, he may dispose of his Stock as he pleaseth; *De feudo Testamenti nulla est factio, Hottom. in lib. 1. feud. Tit. 8.* And it should seem by this Clause, that Barons before this Charter could not without Licence dispose of their Personal Estates by Will; *Quod si ipse morte preventus, pecuniam suam nec dederit, nec dare disposuerit, uxor sua liberi & parentes, & legitimi homines sui, eam dividunt pro anima sua, sicut eis melius visum fuerit.* Yet notwithstanding this Charter, the King or Lord by Law had Intestates Goods and Chattels, in *Henry the Second's* Reign, according to *Glanvill*, (6.) *Si quis vero intestatus decesserit omnia Catalla sua;* When any one dieth Intestate, all his Goods and Chattels are his Lords, if he had many Lords, every one had those found upon his Fee; and the Goods of all Usurers belonged to the King, whether they died Testate or Intestate.

(6.) *Lib. 7. c. 15.*

E

Si quis Baronum vel hominum meorum, forisfecit, non dabit vadium in miseria pecunie sue; That is, If any of his Barons or Feudataries forfeited, he should not forfeit, or give Security to answer all his Goods or Moveables, as they did in the time of his Father and Brother, *sed secundum forisfacturæ modum, &c.* but his forfeiture or punishment should be answerable to the nature of his fault. *Quod si perfidie vel sceleris Convictus fuerit, sicut culpa, sic emendet.* This Perfidiousness was called **Felony**, (7.) and was a forfeiture of the Fee, but there being degrees of Treachery and Ingratitude, the Feudatary here was to make satisfaction only according to the greatness or smallness of the Crime.

Punishment to be according to the nature of the fault.

(7.) *Hottom. in verb. feloniam.* Treachery punished according to the Heinousness of it.

F

Murdra etiam retro (that is the Money Mulcts, or Punishments due for Murder committed) *ab illa die qua in Regem Coronatus fui*

Murder penalties

omnia condono; From the day in which he was Crowned he forgave it all. *Et ea quæ amodo facta fuerint iuste emendentur, secundum legem Regis Edwardi*; And for the future the Fine or Pecuniary Mulct for Murder should be the same it was in King Edwards Laws, which was Forty six Marks; See Law 53 of Seldens, and Law the 15th of Lambard. King William and his Son Rufus, besides that they raised the Fine or Punishment for the Murder of a Norman, and put the payment of it more strictly upon the Hundred than before, they also punished the English (8.) with severe Torments. This Law restored the old Fine for Murder as it was formerly.

(8.) Gervaf.
Tilbur. lib. 1.
Tit. 23.

Forestas Comuni Consilio Baronum meorum, in manu mea ita retinui, sicut pater meus eas habuit. There were mighty Clamours against his Father and Brother, concerning Forests, and the Laws and Rules they directed for their Government, yet these the Barons allowed and submitted to, seeing they were small matters in respect of the great Advantages they had by the renunciation of his Feudal Rights.

Militibus Qui per Loricas Terras suas defendunt, Terras Dominicarum carucarum suarum quietas ab omnibus Geldis, & omni proprio dono meo concedo.

The Lands which the Military Men used themselves were not to be Taxed.

(9.) See the Glossary in the words.

Military Fees are sometimes called *feoda Lorica*, (9) and sometimes *feoda* (9.) *Haubertica*, *Lorica* signifying particularly a Coat of Mail, and *Haubert*, *Halbert* or *Halbard*, a Lance, Javelin, or Halbert; which particular words at length either of them came to be used for the whole Armour of an Horseman, which was a Coat of Mail, a Shield, a Sword, Helmet, and Javelin or Halbert: as likewise did *Scutum*. To these Milites or Chevaliers, he granted their Demeasns or Lands which they kept in their own hands, and occupied themselves, should not be Taxed; but for others let out to Tenents (1.) they were still liable to Tallages and Impositions, which the Tenents paid to their immediate Lords; and for this Indulgence he expects.

(1.) Spelm.
Glossar. in
verb. feudum.

For these favours, he expects they should be ready with Horse and Arms to defend the Kingdom.

(1.) Append.
n. 10.

Ut sicut tam magno Grabamine alleviati sunt, ita equis & armis, bene se instruant ut apti & parati sint ad serbitium suum, & ad defensionem Regni sui. That as they were freed from such great Burthens upon their Estates, so they should be well furnished with Horse and Arms, ready and prepared for his Service, and for the defence of his Kingdom. This plainly shews who were mostly to receive the benefit of this Grant, his Barons, Chevaliers, Knights, and Military Men, amongst whom, all or most of the (2.) Lands of the Nation had been divided; And after all this he adds,

Pacem firmam pono in toto Regno, & teneri amodo precipio; Legem Regis Edwardi, vobis reddo, cum eis Emendationibus, quibus pater meus eam emendavit Consilio Baronum suorum. I settle a firm Peace in the whole Kingdom, and Command it to be kept for the future. I restore to you the Law of King Edward, with those Emendations with which my Father altered or amended it, by advice of his Barons. These were the Laws of King Edward which Ingulph Abbat of Croyland brought with him from London, of which enough hath been said before.

Si

Si quis aliquid de meo, vel de rebus alicujus, post obitum Regis Wilhelmi fratris mei cepit, totum cito reddatur absque emendatione, sed si quis inde aliquid retinuerit, ille super quem inventum fuerit, graviter mihi emendabit. If any one hath taken any thing of mine, or any other Mans, since the death of my Brother King William, he may presently restore it without Punishment, but if he reteins it, and it be found in his possession, he shall be grievously Fined to me.

A

His Testibus, (Mauritio Londinensi Episcopo) he was a Norman, King Williams (3.) Chaplain first, and then Chancellor. (*Willielmo Wintoniensi Electo*) his name was (4.) Giffard and a Norman, he was chosen in the time of Rufus, in the absence of Anselm at Rome, but by reason of the (5.) Contest between Rufus, Henry the First, and Anselm, about Investitures, he was not Consecrated, until ten years after his Election, or Designation by Rufus. (*Girardo Herefordensi Episcopo*) he was a Norman and Chancellor under King William the First, and Second. (*Henrico Comite*) Hen. of Newborough Earl of Warwick, a Norman, and a great Contriver (7.) of Henry's Kingship. (*Simone Comite*) Simon Sylvanectensis, Simon S. Liz. a noble Norman Earl of (8.) Huntingdon and Northampton. (*Waltero Giffard Comite*) he was a Norman, Earl of Buckingham, and Brother to Bishop William. (*Roberto de Monteforti*) (*Rogero Bigod*) two known Normans, & aliis Multis. Not an Englishman amongst these Witnesses, of which if any Man doubts, let him peruse Dugdales Baronage, in the several Names and Titles, *Malmsh. de gestis pontificum Eadmer*, and the Historians of those times; From whence 'tis more than probable, this Charter was an Indulgence, and an Abatement of the Common Feudal Law, granted to the Norman English, such as lived in England, rather than to the ancient Natives, or Saxon English, as it will appear hereafter.

B

C

D

This Gentleman (9.) says, it was the powerful and greatest Interest of the English that kept the Crown upon Rufus his Head, maugre all the power of the Normans, who universally joyned with his Brother Robert. Here he must mean the English Saxons, and not the English Normans, or he proves nothing, the truth of which will be examined, when we come to consider the Directions of the Charters of the first Norman Kings.

E

The Third Question.

Whether it be true, that the English had neither Estates nor Fortunes left? but all was divided between the King and his Normans.

F

As the two foregoing Questions have not been rightly stated, so neither is this, for 'tis not barely, Whether the English had Estates or not? but, Whether they possessed them in the same manner and condition after the Conquest, they did before? Many Saxons had Estates, and the same Lands they held before the Conquest, but after it, they received them from the Normans, and held them as their Tenents, and under such Composition, Rents, and Services as they put upon them. See the Answer to Mr. Petyt's *Ancient Rights, &c.* f. 12. A.

And

(3.) Godw. de
presu. p. 233.

(4.) Ibidem,
p. 269.

(5.) Ibid. and
p. 92.

(6.) Ibid. inter.
Episc. Ebor.
f. 27.

(7.) Malmsh.
f. 88. 4. n. 20.

(8.) Dugd. Ba-
ron. f. 38 col. 2.

Not an En-
glishman to be
found amongst
the Witnesses
to King Hen.
Charter.

(9.) Arg. An-
tinorm. p. 57.

Arg. Anti-
norm. p. 58.

The English
Saxons that
held their
Estates, had
them upon
Terms from
the Normans.

(1.) *Append.*
n. 10.

All the Lands
in England
possessed by
William, and
distributed to
his Followers.

And 'tis demonstrable by a (1.) Catalogue of all the Tenents names that held Lands of the King in every County of *England* that was surveyed, that the whole Nation was divided between the Conqueror and his *Normans* or Followers; and that whosoever held any Lands, Mannors, or Towns, held them of the Persons there named, which were all Strangers, such as came in with *William*, or followed him, except perhaps some very few Bishops, Abbats, or Churchmen that had their Lands restored again by the Mediation of Arch-Bishop *Lanfranc*, as is shewed in the Preface to the *Norman Story*; and *Taini* or *Ministri*, Servants and Rural, or other small Officers, that had served *Edward* the Confessor, and were afterward retained by the Conqueror.

A

(2.) *Arg. An-*
tiquo: m. p. 58,
59.

To make good his (2.) contrary Assertion, he again is upon the foil, That King *William* was received upon Terms, and that the *Saxons* had their Laws confirmed and continued unto them, and therefore their Estates also. This hath been sufficiently spoken to before.

B

(3.) *Ibid. p.*
61, 62.
Pety's Pre-
face to An-
cient Rights,
&c. p. 23.

His next (3.) Argument to the same purpose, is the old thredbare, over-worn Fable of *Sharnborn*; Thus, *Edwin* of *Sharnborn*, and several others that were ejected out of their Estates and Possessions, went to the Conqueror and told him, that they never either before, or in, or after the Conquest were against him, either by their Advice or any other Aid, but kept themselves peaceably and quietly; and this they were ready to make out, which way soever the King pleased to appoint; whereupon he ordered an Inquisition to be made throughout all *England*, whether it were so, or not, which was plainly proved; Therefore he presently Commanded, that all those who so kept themselves peaceably in manner aforesaid, as these had done, should be repossessed of their Lands and Estates, as fully and quietly, as they ever held them before his Conquest. This is a Case, saith our Author, (4.) so full to the point, and so plain to every common understanding in it self, that it would be frivolous to make any deductions from it; and so it is, if it had been true. There is no such Plea as this in all *Domesday Book*, nor any like it, which Survey (as hath been said) was finished in the Twentieth year of the Conqueror, who presently after went into *Normandy*, and never returned again into *England*, nor is there any such Person as *Edwin* to be found in *Domesday* that held any Lands in *Sharnborn*. See full satisfaction given to this in the Answer to the *Ancient Rights of the Commons*, f. 11. E. f. 12. A. B. C.

C

D

E

(4.) *Ibidem,*
p. 63.

The partiality
and disingenu-
ous Citations
of the Author
of *Jus Anglor.*
&c.
* *Jus Angl. ab*
antiquo, p. 95.
* This Gentle-
man under-
stands not the
meaning of
Virgata, a Vir-
gate was the
fourth part of
a Hide.

But though there are really no such Pleas as this pretended and sham Plea of *Sharnborn* in *Domesday Book*, yet the Author of *Jus Anglorum ab antiquo*, hath endeavoured to make some very near, and like unto it, by mangling, partially, and false citing some Entries in that great Record, by which he pretends to shew several Claims, or * Titles allowed. *Aldredus frater Ode Caluminatur unam virgatam terræ de hoc Manerio & dicit se eam tenuisse die qua Rex Edwardus fuit vivus & mortuus, & discessit fuit postquam Willielmus mare Transiit, & ipse dirationavit coram Regina inde est testis ejus Hugo de port & homines de toto Hundredo. Aldred* the Brother of *Ode* claims one * Rood of that Maner, and says that he held it the day that King *Edward*

F

Edward

Edward was alive and dead, and was disseised after King William passed the Seas; and he recovered it before the Queen. Hugo de Port is Witness of it and the whole Hundred.

In Domesday Book thus:

Hantescire.

A

N. LIII. Terra * Willielmi arcuarii, in Sumburn Hund.

* D. mss. f. 48. b. col. 2.

Isdem Willielmus tenet Cuntune, Quinqu: Teini tenuerunt de Rege Edwardo & quo voluerunt ire * potuerunt Tunc se defendebat pro 4 hidis & dimid. modo pro tribus Hidis, Terra est septem Carucarum, In dominio est una, & 13 villani & 19 Bordarii cum 7 Carucis, ibi molinum de 20 solid. & 8 acr. prati, tempore Regis Edwardi & post valuit quatuor lib. modo septem lib.

* Id est, they were not Servi Domini, such as were affixed to the Maner or Service they were in.

B

Eldredus frater Ode * Calumniatur Unam Virgatam Terre de hoc Manerio & dicit se eam tenuisse die qua Rex Edwardus fuit vivus & mortuus, &c. as it is above. Yet notwithstanding this Claim, and his Recovery of this Land before the Queen, he recovered it not as his Propriety, but as Land which he had allowed him for his Service, for it appears under the 69th Title, that this Eldred or Aldred was one of the Kings Thanes or Servants, and had been one of King Edwards, and therefore this Claim makes nothing to his purpose. The Title and Entry is thus.

* Ibidem.

C

Hantescire.

N. LXIX. Terra Cainozum Regis, in Bertune Hund.

D

Ode * tenet de Rege Sudtune, &c.

* Ibidem. f. 46.

In Sumburn Hundr.

Eldredus * frater Odonis Tenet Dimid. h' dam de Rege, ipse tenuit de Rege Edwardo, & tunc se defendebat pro dimid. Hida modo pro una virgata. Terra est unius Caruce in Dominio dimid. cum uno villano & uno Bordario, & dimid. Caruce, & duabus acr. prati valet & valuit 6 solid. It is clear from this Title that Eldred or Aldred the Brother of Ode or Odo, was Servant both to King Edward and King William, and that he had one Virgate of Land for his Service in Sumburn Hundred, which Virgate was doubtless the same that he claimed and recovered of William the Bowyer, lying within the Maner or Town of Cuntune in that Hundred also.

* Ibidem, f. 50. b. col. 2.

E

Next, he says Hugo de Port * had his Claim allowed, Hanc h' dam calumniatur Hugo de Port dicens eam pertinere ad sua Maneria de Cerdesford & Eschetune & ibi eam tenuerunt sui antecessores, & hoc testatur totum Hundredum. This Claim shall be Considered by and by: And the Reader is desired to observe with what partiality and design this piece only of the Record is cited, to abuse the People, when he shall come to this mark & twice placed in the Margin.

* Fus Angl. ab antiquo, p 96.

F

A

* *Fus Angl. ab antiquo*, p. 96, 97.

* In the Record it is volunt.

* *Ibid.* p. 97.

* *Ibid.* p. 98.

* *Ibidem.*

* *Domesd. f. 44. b. col. 2. & Seld. Not. ad Eadm. f. 217. n. 10.*

Observe all between these marks [] is left out in the Citation in *Fus Aglorum*, &c.

A third is the * remarkable Tryal (as he calls it) between *William de Chornet*, and *Picot*. In isto Hundredo & in isto Manerio tenet *Picot* 2. virgat. & dimidium, & istam Terram Calumniatur *Willielmus de Chornet* dicens pertinere ad Manerium de *Cerdeford* Feudum *Hugonis de Port*, per hereditatem sui antecessoris, & de hoc suum Testimonium adduxit de melioribus & antiquis hominibus Totius Comitatus & Hundredi, & *Picot* Contradixit suum Testimonium de Villanis & vili plebe, & de praposis qui * nolunt defendere per Sacramentum, aut per Dei Iudicium, Quod ille Qui tenuit terram liber homo fuit, & potuit ire cum Terra Quo voluit, sed Testes *Willielmi* nolunt accipere legem nisi Regis E. usque dum diffiniatur per Regem.

In that * Hundred, and in that Maner *Picot* holds two Roods and half of Land; that Land *William de Chornet* claims, saying, it belongs to the Maner of *Cerdeford*, of the Feud of *Hugo de Port* by the Inheritance of his Ancestor, and of this produced his Testimony of the better and ancient of the whole County and Hundred, and *Picot* on the other side brought his Villains, and inferior People and Bayliffs, who will not defend by Oath, or by Gods Judgment, (which he * takes not to be the Ordeal but the Battail) that he who held the Land was a Freeman, and might go with it whether he would; * Here the County or Hundred Testifies, that the stress of *de Chornets* Cause depends upon the Confessors Law, and so give the Title with him.

In *Domesday* Book this Entry follows the Survey and Description of the Maner of *Cerdeford*, which see here a little further at this mark & in the Margin, and then referring to the Maner of *Cerdeford* in *Fordingbridge* Hundred, it is said.

In isto * Hundredo & in isto Manerio tenet *Picot* duas virgatas & dimid. [de Rege, *Whitelet* tenuit in Alodio de Rege *Edwardo* pro Manerio tunc & modo Geldabat pro duabus virgat. & dimid. Terra est dimid. Caruc. & ibi est cum uno villano, & duobus Bordariis & 10 acr. prati.] Then it follows, Istam Terram Calumniatur *Willielmus de Chornet* dicens pertinere ad Manerium de *Cerdeford* Feudum *Hugonis de Port* per hereditatem sui antecessoris, & de hoc suum Testimonium adduxit de melioribus & antiquis hominibus totius Comitatus, & Hundredi & *Picot* Contradixit suum Testimonium de Villanis & vili plebe & de praposis, Qui volunt defendere per Sacramentum aut Dei Iudicium Quod ille qui tenuit Terram liber homo fuit, & potuit ire cum Terra sua quo voluit, sed testes *Willielmi* nolunt accipere legem nisi Regis E. usque dum diffiniatur per Regem valuit 15 sol. & post 8 sol. modo 10 sol.

In that Hundred, and within the Precinct of that Maner *Picot* holds two Virgates and half of Land of the King. *Whitelet* held it in Propriety of King *Edward* for a Maner; Then and now it was Taxed for two Virgates and half, the Land is half a Carucate or Ploughland, and there it is, with one Villan, and two Bordars, and ten Acres of Meadow.

That Land *William de Chornet* Claims, (he was Tenent to *Hugh de Port* of the Maner of *Cerdeford*) saying, it belongs to the Maner of *Cerdeford*,

Cerdeford, the Feud or Fee of *Hugh de Port*, by the * Possession of his * Antecessor, and of this he brought his Testimony, of the best and ancient Men of the whole County and Hundred, and *Picot* contradicted their Testimony by Villains, Vile Plebeians, or the lowest sort of the People, and Bayliffs, or Managers of Villages or Manors, who offered to prove by * Oath, or by * Battle, that their Testimony was true; That is, that he which held the Land before *Picot*, was a Freeman, and might go with his Land whether he would; but the Witnesses of *William* would not receive, or be urged upon any other Law than King *Edwards*, (which was their simple Testimony only in this case) until it were determined by the King. The Land was worth Fifteen Shillings *per Annum*, afterwards Eight, at that time Ten.

This Gentleman in his Citation omits these words, *Picot tenet de Rege, & Phitelet tenuit in Alodio de Rege Edwardo pro Manerio*; From whence, 'tis clear, that at the time of making the Survey *Picot* was in possession of the Land, and that he held it of King *William*, and that his Antecessor, *Phitelet* which had it before him, held it in Propriety as a Manor of King *Edward*; and though there appears no Judgment given with *William de Chernet*, or against *Picot* in the Record, yet this confident Person makes a strange deduction, which the words cannot possibly bear, that * the County or Hundred testifies, that the stress of *de Chernet's* Cause depended upon the Confessors Law, and so gave the Title with him. Whereas the meaning of those words, *Sed testes Willielmi nolunt accipere legem nisi Regis E.* is very clear, and altogether to another purpose, for the Witnesses of *William* were urged to try the Title by Battle, which way of Trial * was brought in by the *Normans*, and not in use here before the Conquest, and therefore they would not proceed further than give their Testimony, nor use any other Law than that *usque dum definiatur per Regem*, until the King should define or appoint whether they should or not; so that for ought what appears by the Record, *Picot* was left in Possession, and the Title undetermined, until the King had declared by what Law, whether Testimony only, or Battle, the Trial was to proceed.

By his fourth and fifth Instance, he says, * 'tis evident, that King *William* did not so much as make a new Grant or Confirmation to Men, of what was theirs before, the old Title being sufficiently firm: * Hence in *Amelbrice* Hundred in *Surrey*, *Tenuit Almaris sine dono Regis, eo quod Antecessor ejus Almar tenuit*; *Almar* held without the Kings Grant, because his Antecessor *Almar* held it. The true Entry of this Instance in *Domesday* Book is thus.

Sudrie.

N. XIX. * *Terra Ricardi filii Gisleberti Comitis in Amelbridge Hund.*

Picot tenet de Ricardo in Ebfa dimid. Hid. quam tenuit Elmarus sine dono Regis, eo quod Antecessor ejus Elmar tenuit, tenet nunc Picotus, nunc valet V. solid.

K k

Surrey.

* See the word *hereditare*, & *hereditus* in the Glossary.

* See a little further at this mark in the Margin, how the Authors of *Arg Antinorm* and *Fus Angl. ab antiquo*, impose upon, and abuse the Readers, by not understanding the word Antecessor.

* See per Sacramentum vel Dei Fidei defendere, in the Glossary. The Confidence of the Author of *Fus A glorum*, &c.

* *Fus Angl. ab antiquo*, p. 98. He understands not the Record he cites.

* *Seldens* Discourse of Duel or single Combat, Printed at Lond. 1616. It was left to King *William* to determine whether a Trial was to proceed by Battle or Testimony.

* *Fus Angl. ab antiquo*, p. 98, 99.

* *Ibidem.*

* *Domesday* f. 35. a. col. 2.

Note how partially he cites this.

Surry.

N. XIX. *The Land of Richard Son of Earl Gilbert in Amelebrige Hundred.*

Picot holds of *Richard* half a Hide in *Ebfa* (now *Ebham*) which *Elmar* held without the Kings Grant, because his Antecessor *Elmar* held it, now *Picot* holds it, and now it is worth Five Shillings. A

These *Elmars* both former and later were Invaders, or as we now call them Intruders, they had no Title from the King, and therefore this half Hide was granted to *Picot*, either immediately by the King to hold of *Richard*; or mediately by *Richard*, who was the *Tenant in Capite*, and held six Hides in this Maner of *Ebfa*. He is otherwise called *Richard de Tonebridge*, and his Father was *Gilbert* Earl of *Brion* in *Normandy*, to whom the Conqueror granted *Tonebridge* in *Kent*, and three Miles round it every way. There were many of these Intruders or Invaders, but perhaps more in *Essex*, *Norfolk*, and *Suffolk*, than in any other Counties, for in these three there are in *Domesday Book* distinct Titles concerning Invasions, as in *Essex* number the 90 Title *Invasiones*, in *Norfolk* number 66 Title *de Invasionibus*, and *Suffolk* number 76 Title *de Invasionibus super Regem*; And under these Titles were entred such People as retained their Lands, or had possessed themselves of Land, without the Kings grant or knowledge. B

His fifth Instance, but the second, by which he would prove, That Men held their Estates that they had before the Conquest, without any Grant or Confirmation from King *William*, is this; * In *Gloucestershire*, *Brietric* tenet de Rege quatuor hidas in *Lechamtone*, & *Geldant*, ipse duas hidas tenuit tempore Regis *Edwardi*, & *Ordric* Tenuit alias duas, Rex *Willielmus* utramque eidem *Brietric* Concessit pergens in *Normaniam*. C

Brietric * holds of the King four Hides in *Lechamtone*, and they pay a Quit-Rent, he held two Hides in the time of King *Edward*, and *Ordric* the other two, King *William* when he went into *Normandy*, granted them all to *Brietric*; * so that *Brietric* enjoyed the other two, not contained in the Kings Grant, upon his prior Title. D

In *Domesday Book* thus.

Glowcestre-scire.

N. LXVIII. *Terra Cainorum Regis*

In *Gitenham Hund.*

Brietric * tenet de Rege quatuor hidas, and so on as above; We find by this Title that *Brietric* was one of the Kings Servants, and held two Hides as such, and he held them of King *Edward* upon the E

Domesday-Book.

* *7us Angl. ab antiquo*, p. 99.

* *Ibidem.*

* *Ibidem.*

* *Domesd. f. 170. b. col. 1.*

A the same Account ; King *William* continued him in his Service, and to him the Land he held for that Service, and then gave him two Hides more which *Ordric* held of King *Edward*, who was doubtless a Servant to him, and *Brictric* afterwards performed his Service, for which he had the Land. See more of these Servants, Ministers, or Tains and their Tainlands hereafter in this Answer, where the Readers patience will be exercised with more of this ignorant, confident, self-conceited Mans wretched abusing, partial citing, and false applying of Records and History.

B And further, that it is not probable there was any such indulgence used toward the Saxons, as the imaginary and forged favour towards *Sharnborn*, I will produce two Instances. First, of *Wulketule* Abbat of *Croyland*, and the Monks of the same Monastery, who were Disseised of the Priory of *Spalding* in *Lincolnshire* and the Lands belonging to it. This Priory was founded by (5.) *Thorold* (*Viccomes*

Lincolniæ) in the year 1052. he gave to it the Maner of *Spalding*, with all the Lands, Rents, and Services belonging to it, and the Stock upon the Land, and contrived his Maner House into an Habitation for Monks, to ease and relieve the Abby of *Croyland*, that was then too full and over-burthened with them, and carried with him six Monks from *Croyland* and placed them there ; who there continued with a Prior until *Ibo* (6.) *Talbois* Earl of *Anjou* and Lord

C of *Holland* that came over with the Conqueror, turned out the Prior and Monks, and Disseised the Abbat and Convent of *Croyland* of their Cell, killed and maimed their Cattel, Sheep and Oxen, beat, wounded, and sometimes killed their Servants till they left it, and sent to *Natalis* Abbat of *St. Nicholas* in *Anjou*, desiring him to send him five Monks and a Prior, and he would provide a Cell for them, with sufficient Maintenance ; *Veniunt* (saith *Ingulph*) *And gavenses*

D *Monachi, & Cellam nostram occupant, alienique coram nobis terras nostras Devorant. Et Domino Wulketulo Abbate, super hoc in Curia Regis Calumniam movente, omnes Normanni mutuo Confederati, prædas & pressuras, cedes & ceteras injurias universas Ibonis Talbois contra Croylandenses justificant.* The Monks of *Anjou* came, and usurped the Cell of *Croyland*, and Strangers devoured their Lands before their Faces ; Of this *Wulketule* the Abbat complained, and put in his Claim for the Cell in the Kings Court, all the *Normans* confederated together, and justified the Rapine, Slaughters, and other Injuries of *Ivo Talbois* against those of *Croyland*, and afterwards King *William* (7.) confirmed *Ibo* his settlement upon the

E *Anjou* Monks. What can it be presumed, that the *Croyland* Abbat and Monks had done against *William*, to have the Cell taken from them ? Nay, What had the six Monks of *Spalding* done, to be turned out of it ? *Ivo* had some sort of Title to this Maner by his Wife *Lucia*, (of whom more by and by) and perhaps he sent for such hungry Monks out of his own Country, as would be contented with half, or a third, or fourth part of it, and kept the rest to himself.

F The second Instance is in *Afa*, a Saxon or Danish Lady. De (8.) *omni Terra Ase Testantur Quod Roberti Malet debet esse, eo quod ipsa habuit terram suam separatam & liberam a Dominatu & potestate Bernulfi Mariti sui, etiam cum simul essent, ita ut ipse de ea, nec donatione,*

The Saxons received no favour from the Conqueror.

(5.) *Ingulph. Histor. f. 510. b. n. 10. 20.*

The Case of the Priory of *Spalding*.

(6.) *Ibid. f. 513. a. n. 40.*

Ivo Talbois seisth it, turns out the English, and puts in Monks of *Anjou*.

The Abbat of *Croyland* claims the Priory in the Kings Court.

(7.) *Monast. Angl. Vol. 1. f. 307 col. 1. n. 30.*

Ivo Talbois is by the Conqueror confirmed in his Possession.

(8.) *Domesd. f. 373. a. col. 1. 2. Tit. C. 1. mores in Eur-wicshire.*

Afa, a Woman had all her Lands seized, though it doth not appear she had done any thing against the Conqueror.

(9.) *Sim. Dunelm.* col. 198. n. 60. A. D. 1069.

(1.) *Arg. Antinorm.* p. 63.

(2.) *Pag.* 27.

(3.) *Arg. Antinorm.* p. 64.
(4.) *Placit. Coram. Rege Hill.* 14 Ric. 2. Rot. 50. Warm.

The Suit between the King and the Prior of Coventry.
(5.) In his Additions, p. 15.

(6.) *Fus Angl. ab antiq.* p. 15. in his Additions.

nec venditione, facere nec forisfacere posset, post eorum vero separationem, ipsa cum omnis terra sua recessit, & eam ut domina possedit: Homines autem de Comitatu, tam de illa, quam de Tota terra ejus, Willielmum Mallet saisitum viderunt, donec invasum est castellum. Hoc attestentur, de omni terra Afe quam habuit in Eboracshire. Concerning all the Land of *Afa* the Men of the County do Witness, that it ought to be *Robert Mallets*, because she held it separate and free from the power of her Husband *Bernulph*, yea, when they were together, so that he could neither dispose of, or forfeit it, but after their parting or separation she went off with all her Land, and possessed it. But the Men of the County, save *William Mallet*, seized of her, and all her Land before the Invasion of the Castle, (that is, the Castle of *Tork*) this they witness concerning all the Land of *Afa*, which she had in *Torkshire*. *Mallet* was Governor of *Tork*, and *Vicecomes* of *Torkshire*, (9.) and when the *Danes* took *Tork* and the Castle, he, his Wife, and two Children, and few others had their Lives saved with great difficulty. What had this Woman done, to be made Prisoner, and have her Land seized? she fought not against the Conqueror, but in all probability behaved her self peaceably. What did far the greatest part of all the remote Counties in *England*? they neither fought, nor advised against *William*, yet had their Lands taken away.

Next he goes on to the saying of Judge (1.) *Shardelow*, *Le Conqueror ne vient pas, &c.* The Conqueror came not to oust those who had a Right Possession, but to dispossess those, who wrongfully had enjoyed any Land to the disherison of the Crown. This we have heard of before, in Mr. *Petit's* Preface (2.) to the *Ancient Rights, &c.* and if the Reader thinks there is any weight in that wonderful saying, he may receive satisfaction in the Answer to that Book, f. 13. A.

After this he brings a (3.) Record of a memorable Suit between the King and the Prior of *Coventry* in the Fourteenth of (4.) *Rich. 2.* the King demanding a yearly Pension for one of his Clerks, as holding of him by Barony; The Prior denies he held any thing of the King by Barony, and pleads he held the Priory upon the foundation of *Leofric*, some time Earl of *Chester*, founded in the time of Saint *Edward* King of *England*, recites the Charter, and then proceeds in his Plea upon a Title of Descent. The Author of *Fus Anglorum ab antiquo* (5.) urgeth the same Record, and demands a Categorical Answer to it. They both, or one of them, had it out of the *Monasticon*, Vol. 1. f. 305. col. 1. n. 20.

In placito (6.) inter Regem & Priorum de Cobentre de annua pensione uni clericorum Regis, ratione nova Creationis ejusdem Prioris quousque, &c. Prior venit & defendit vim & injuriam & quicquid est in contemptu Domini Regis, &c. non cognovit Ecclesiam suam beatæ Mariæ de Cobentre fore Ecclesiam Cathedralem, nec ipsum Priorum tenere aliquid de Domino Rege per Baroniam prout pro Domino Rege in narratione sua proponitur, & dicit quod tenet Prioratum predictum ex fundatione cujusdam Leofrici quondam Comitis Cestrie, qui Prioratum predictum fundavit Tempore Sancti Edwardi dñi Regis Anglia per cartam in hac verba.

Anno

Anno Dominica incarnationis 1043. ego Leofricus Comes Cestria, &c. and then sets forth the Foundation, and that he gave unto it in several Counties, twenty four Towns, &c. there named, and then says cum hiis omnibus Rex Edwardus & ego libertates huic Monasterio dedimus; ita ut Abbas ejusdem loci, Regi Anglia sit subjectus; and so proceeds to the second part of his Plea and Title by Descent.

The Priors
Plea.

- A (7.) Ibidem recitatur Charta ejusdem regis Edwardi, quas Donationes & Concessionis diversi alii Reges confirmaverunt, & dicit quod postea per processum temporis nomen Abbatie predictae, divertebatur in nomen Prioratus, eo quod Leofricus ad tunc Abbas ibidem creatus fuit in Episcopum Cestriae, & ordinavit per assensum Monachorum ibidem quod Abbatia predicta, ex tunc foret Prioratus, & quod superiores ejusdem Ecclesiae, forent priores successive in perpetuum, & dicit quod de ipso Leofrico, quia obiit sine Herede, de corpore suo descendente, Advocatio Ecclesiae predictae, tempore Willielmi Conquestoris Anglia, cuidam Hugoni Comiti Cestriae ut Consanguineo & heredi ipsius Leofrici, viz. filio Erminilde sororis ejusdem Leofrici, & de ipso Hugone, cuidam Ricardo, ut filio & heredi, & de ipso Ricardo cuidam Ranulpho ut consanguineo & heredi, viz. filio Matildis sororis predicti Hugonis, & de ipso Ranulpho, cuidam Ranulpho, ut filio & heredi, &c. The (8.) Prior further pleads, that the Advowson of the Priory went along with the Descendants, until at length it was given, and came into the hands of King Henry the Son of King John, and his Heirs for ever, &c. Predictus Prior sine die.
- B
- C

(7.) Ibid. p. 18.
Arg. Antinorm.
p. 65.

(8.) Ibid. p. 17.
and p. 66.

From this great Record (as he calls it) our Argumentator says it is clear and evident.

(9.) Arg. Antinorm. p. 67.

- D First, That Leofric was Earl of * Chester in the Reign of King Edward the Confessor, and that he dying without Issue, the Earldom of Chester and Right of Advowson of the Priory of Coventry in the time of William the Conqueror, descended to Hugh Earl of Chester, as his Cousin, and Heir to Leofric, as being the Son of Erminilde Sister of Leofric; and that from Hugh descended Richard his Son and Heir, and from Richard descended Ranulf as Cousin and Heir, that is the Son of Maud Sister of Hugh, and from that Ranulph another Ranulph his Son and Heir.

From the
Priors Plea
he observes
(as he says)
three evident
things.

- E Secondly, That (1.) if William when he came in, made an absolute Conquest, this Title had been impossible to have been maintained.

(1.) Ibidem.

- F Thirdly, (2.) That the Plea of the Prior was allowed; for the Record saith, Predictus Prior sine die, and the Advowson aforesaid did descend. And here he adds, That 'tis observable, that Judgment being given upon solemn Debate and Trial, neither the Judges nor Kings Council, so many hundred years ago, as in the Age of Richard the Second, knew any thing of this new received Notion of a new Conquest.

(2.) Ibid. p. 67.

* He was Earl of Mercia, but was called sometimes Earl of Chester, sometimes Earl of Leicester, because of his often Residence at those Places.

Both parts of
the Priors
Plea false.

The Prior of
Coventry was
a Baron.

(3.) *Cl. 11 Ric.*
2. m. 13. *Dors.*

(4.) *Seld. Tit.*
Hon. f. 60.

(5.) *Ibidem, f.*
604, 605, 606.
607.

* *Monast.*
Angl. vol. 1.
f. 304. col. 1.
n. 10.

(6.) *Rot. Cl.*
13. *Hen. 3.*
m. 3.

(7.) *Monast.*
Angl. vol. 1.
f. 305. col. 1.
n. 50.

(8.) *Petyr's*
Ancient
Rights, &c.
p. 78. in
Append.

Leofric had
Issue, his Son
and Heir Earl
Algar.
(9.) *Dugd.*
Baron. Tit.
Earl of *Mercia*
before the
Conquest, and
he had Issue,
Earl *Edwin*
and Earl *Mor-*
char.

(1.) *Ingulpb.*
Histor. Croy-
land, f. 510.
b. n. 40.

(2.) *Ibidem,*
n. 50.

(3.) *Ibid. f.*
511. *d. n. 10.*
20.

Ingulpb was
installed Ab-
bat of *Croy-*
land, Anno
Dom. 1076.

This Plea consists of two parts; First, That the Prior of *Coventry* held nothing by Barony; Secondly, A Title of Right of Advowson of the Priory by descent. And I do affirm they were both false.

First, The Prior of *Coventry* as Prior was a Baron, and summoned to Parliament as such, *Selden Titles of Hon. f. 602.* in (3.) the Eleventh of *Richard* the Second, but three years before this Suit, and so continued until the time of the Dissolutions of Monasteries, and no Abbats or Priors after that time came to Parliament, (4.) but such as held by Barony; and from this Attendance he might have been excused, (5.) if he had pleaded in Parliament, and could have made it appear he held not by Barony, as some others did, that thought it a burthen to them and their Houses.

The twenty four Maners or Towns, and * one half of the Town of *Coventry*, given by *Leofric* to this Priory, were undoubtedly a Barons Estate, and therefore this as well as all Bishopricks, and other Abbies and Priories, was most certainly put under the Tenure of Baronage by the Conqueror; and it appears upon Record, (6.) that in the Thirteenth of *Henry* the Third the Prior Compounded with, or Fined to him, for the Service of ten Knights Fees at 40 s. every Fee in the Counties of *Warwick* and *Leicester* only, whereas some of the Maners or Towns *Leofric* (7.) gave to it, were in *Gloucestershire* and *Worcestershire*, in *Hampshire* and *Cheshire*; which notwithstanding in the Seventeenth of *Edward* the Third, the (8.) Prior of *Coventry* put in such a false Plea as this, That he and his Predecessors held all their Lands and Tenements, by the Service of two Knights Fees only, and that the King nor his Progenitors were ever seised of more, or other Services by the Prior or his Predecessors, by Fine, or Service by the Body of Men.

Secondly, I affirm the Title by Descent to be utterly false, for this very Earl *Leofric*, the Founder of this Priory, had Issue, *Algar* Earl of *East-Angles* first, then after his Fathers death Earl of (9.) *Mercia*, and *Algar* had two Sons, (9.) *Edwin* Earl of *Mercia* after his death, and *Morchar* Earl of *Northumberland*, both living, and had their Estates and Lands taken from them after the Conquest, and a Daughter named *Lucia* Married to *Ivo Talboys*, with whom King *William* gave him all her Brothers Lands in *Holland* in *Lincolnshire*.

Anno Domini 1053. Godwinus comes buccella gustata suffocatus interit, Comitatus West-Saxonie Haroldo filio suo datus est, & Comitatus Haraldi (id est) East-Saxonie Algaro (1.) filio Leofrici Leicestrensis Comitatus est donatus.

Anno Domini 1057. Illustrissimus & optimus (2.) Comes Leicestrie Leofricus obiit, & apud Cobenteriam Monasterium suum, Quod Construxerat, & maximis donariis, & privilegiis plurimum ditaverat, sepultus requiescit.

Anno Domini 1059. Strenuissimus Comes (3.) Algarus, invictus, & populo terræ, sincerissimo affectu amatus obiit, & Cobenterie juxta patrem positus requiescit inhumatus. Relictis Tribus liberis, duobus filiis videlicet, Edwino & Morchario, & unica filia quæ nunc superest, Comitissa Lucia.

A

B

C

D

E

F

Ivoni Talbot post necem duorum fratrum & Comitum, Edwini, & Godrici (4.) Luciam eorum sororem cum omnibus terris & tenementis (which they had left) ad eosdem pertinentibus, inclitus Rex Willielmus dederat in uxorem, qua in Hoplandia potissime jacebant, &c.

(4.) Ibidem. f. 513. 4. lin. 2.

A So much for *Leofric* and his Issue, now let us see what and who *Hugh Earl of Chester* was, that is said in this Plea to have been Cousin by Blood, and Heir to this Earl *Leofric*, which is as false as that he died without Issue.

Hugh Earl of Chester was not Cousin by Blood, or Heir to *Leofric*.

The first Earl of *Chester* after the Conquest was (5.) *Gherbod a Fleming*, who being sent for into *Flanders*, and having obtained leave of the King to go thither, he there fell into his Enemies hands, and was kept there, by a long and hard Imprisonment.

(5.) *Ordel. Vital. f. 52. A. Gherbode a Fleming fuit Earl of Chester after the Conquest.*

B In whose absence King *William* gave this Earldom to (6.) *Hugh de Abrincis*, a Person of great note amongst the *Normans*, an expert Soldier, and his Sisters (7.) Son; his Father was (8.) *Richard de Abrincis*, surnamed *Goz*, and he was Son to (9.) *Tursten* surnamed *Goz*, who (9.) was Son to *Ansfrid the Dane*.

(6.) Ibidem. The Genealogy of the Earl of Chester. (7.) *Hen. de Kington, col. 2376. n. 60.* (8.) *Order. vit. ut supra.* (9.) *Gemet. lib. 7. c. 6.* (1.) (2.) (3.) *Order. vital. f. 522. B. Gemet. lib. 8. c. 38.*

C This Earl *Hugh* Married (1.) *Ermentrude* Daughter to *Hugh Earl of Clermont* in *Beauvois* in *France*, and by her had *Richard Earl of Chester*, who was (2.) drowned, having (3.) no Children, with *William* Son to King *Henry* the First, in a Shipwrack coming out of *Normandy*.

D To this *Richard* succeeded *Ranulph de Bricasard Vicecomes Baiocensis*, Viscount of *Bayeux* in *Normandy*, his Cousin German, and Heir, by *Maud* his Fathers Sister: and to him succeeded *Ranulph* his Son, called *de Gernons*, &c.

(4.) *Order. vit. f. 851. A. 871. A. Gemet. ut supra.*

Having considered the Title of Descent in this great Record, his first (5.) clear and evident Deduction from it, That *Leofric* died without Issue, and that *Hugh Earl of Chester* was his Cousin and next Heir, as being the Son of *Ermenild* the Sister of *Leofric*, appears to be false.

(5.) *Arg. Antinorm. p. 67.*

E Secondly, It appears that the Title of the Advowson of the Priory, could not have been maintained by this Descent, if it had ever been well examined and thoroughly debated.

F Thirdly, If upon solemn Debate and Trial Judgment was given for the *Prior*, (as by the words *predictus Prior sine die*, it appears it was) 'tis certain the Judges and Kings Council understood and knew as little of this Descent and Tenure by Barony, as they did of the absolute Conquest.

Further, Our Author gives (6.) some few Instances of the very many he could (as he says) out of *Domesday Book*, to satisfy his Reader, that there were many Proprietors of *Englishmen*, who had their Free-hold Estates upon Titles Paramount to any of the Conquerors Donation; and these he takes (as he says) from the industrious

(6.) *Arg. Antinorm. p. 69.*

* *Ibid.* * is exactly like his own.

(7.) *Arg. Antinom.* p. 69. *Fus Anglor.* p. 80.

The disingenuous and false practices of this Writer, and his Worthy Friend.

(8.) *Domesd.* f. 44. b. col. 2.



(9.) See *Glossary*.
* That is *Cerdeford* and *Eschetune*.

The false inference of the Author of *Fus Anglorum ab antiquo*.

(1.) *Domesd.* f. 48 a. col. 1.

* *Fus Angl. ab antiquo*, p. 96.

strious and worthy Gentleman Mr. *Atwood* in his Book Entituled *Fus Anglorum ab antiquo*, where in his * excellent History of the Conquest amongst others, he hath these following.

(7.) *Surrey.*

Hugo de Port (7.) was a very great Proprietor, as may be found under the Title, *Terra Hugonis de Port*. Many Maners he had: and as appears in *Hampshire* he had at least two Maners, *Cerdeford* and *Eschetune*, from his Ancestors, before *Williams* entrance.

These Gentlemen never cite any thing particularly or exactly out of *Domesday*, so as it is a great trouble to trace them: *Hugo de Port* had no Title or Land in *Surrey*, as is evident from *Domesday-Book* in that County, but the Title he mentions is to be found in *Hampshire*, where he held much Land of the King, and many Maners, amongst the rest these two above mentioned, which are there entred as here it followeth.

(8.) *Hantescire.*

Terra Hugonis de Porth, in Fordingbridge Hund.

Hugo de Port tenet Cerdeford. Willielmus de eo, duolib. hom. in Alodium Tenuerunt pro duobus Man. de R. E. Tunc & nunc geld. pro 5 Hid. Terra est 4 Caru. in Dominio sunt 2 Caru. & 20 Bord. & 4 Servi cum 1 Caru. & quater 20 acr. prati & 11 T. R. E. & nunc val. 4 lib. cum Recep. C. sol.

Hugo de Port holds *Cerdeford*, *William* holds it of him, two Freemen held it in (9.) *Alodium* for * two Maners of King *Edward*, then and now it was and is taxed for five Hides, the Lands contain four Carucates, there are two in Demeasns, and twenty Bordars, and four Servants, with one Carucate, and fourscore and eleven Acres of Meadow in the time of King *Edward*, and now it is worth Four Pounds, when *Hugo* received it, it was worth an Hundred Shillings. Here is no Title paramount to the Conquerors Donation, for *Hugh de Port* held it not before that time, but two Freemen held it of King *Edward*.

(1.) *Hantescire.*

Terra Gilberti de Breteville.

*Gilbertus de Breteville Cen. de Rege unam Hidam in Sumburn Hund. Hanc Alnodus Cenuit de R. E. &c. * Hanc Hidam Calumniatur Hugo de Port dicens eam pertinere ad sua Maneria Cerdeford & Eschetune, & ibi eam tenuerunt sui antecessores, & Hoc Testatur Totum Hund.*

Gilbert de Berteville holds of the King one Hide in *Sumburn* Hundred, *Arnold* held this Hide of King *Edward*, &c. *Hugh de Port* claims this Hide, and says it belongs to his Maners of *Cerdeford* and *Eschetune*, and that his Antecessors held it there; This the whole Hundred doth Testifie.

Our

Our Author and his industrious and worthy Gentleman lay hold of the word Antecessors or Ancestors only, and impose upon their Readers in the meaning of it, and using it as if they were Ancestors in Blood; and such as *Hugh de Port* was Heir unto; but such they were not, for we see in the first entry of *Cerdeford*, that *Hugh de Port* held it after the Conquest, and two Freemen before the Conquest of King *Edward* for two Maners, so that Ancestors here were only Antecessors, or Predecessors in Possession, and such as held the Maners before *Hugh* had them, and not Ancestors in Blood, from whom they descended to *Hugh*. See more in the *Glossary* upon the word, for the confirmation of this.

Antecessors in *Domesday* are only predecessors in Possession, not Kindred or Ancestors in Blood.

His second Instance, (2.) the words these. The Earl of *Moreton* a very powerful Prince, as I may call him, held *Estreham* in *Tenrige* Hundred in the time of King *Edward*, he enjoyed several other great Possessions of the gift of *William*. I doubt not indeed but he was a Norman born, yet he was here before the entrance of the Normans, and might, not improbably be in favour with King *Edward* the Confessor, who was all Frenchified; he to be sure had some Lands in *England*, which he enjoyed not from *Williams* Division: Fine Shuffle! he was half Brother to the Conqueror, and had in *England* of his Donation * Seven hundred ninety three Maners, whereof this was one, he was Earl of *Moreton* in *Normandy*, and *Cornwall* in *England*. The true Entry of this Town or Maner in (3.) *Domesday* Book is as followeth.

(2.) *Antinorm.* p. 70. *Jus Anglor.* p. 81. In the Margin of this Book, thus, *Ipse Comes Tenuit Estreham, T. R. E.*

* *Domesd.* in several Counties. (3.) *Fol.* 34. a. col. 2.

(3.) *Sudrie.**Terra Comitum Moreton.*

Ipse Comes ten. Estreham T. R. E. se defend. pro 5 hid. nunc pro Nicholo, Herald. tenuit 1 hid. & dim. Canonici de Waltham 1 hid. & dim. tres sochi tenuer. 11 hid. & quo voluerunt cum eis ire potuer. Tract. est 11 Car. ibi sunt tres villi & 3 Bordar. cum 2 Car. & dim. T. R. E. val. 30 sol. & post 15 nunc 43 sol.

*Surrey.*The Land of the Earl of *Moreton*:

The Earl held *Estreham* in the time of King *Edward*, it was Taxed at the rate of five Hides, now nothing; *Herald* held one Hide and an half, the Canons of *Waltham* one Hide and an half, three *Sochmen* held two Hides, and might go with them whither they would, (that is, where ever they were themselves, they might dispose of their Lands) the Land is two Carucates, there are three Villanes, and three Bordars, with two Carucates and an half; in the time of King *Edward* it was worth Thirty Shillings, afterwards Fifteen, now Forty three Shillings.

Ipse Comes Cen. Estreham, Cen. is here put for *Tenet*, not *Tenuit* as in their Margins, for *Herald Tenuit*, the Canons of *Waltham* and three *Sochmen Tenuerunt*, and therefore the Earl according to the Title, that they were his Lands, was the present Possessor of *Estreham*;

Tempore. Re-
gis, Edwardi.

ham; which was before the Conquest possessed by *Herald*, the Canons of *Waltham* Abby, whereof he was Founder, and three *Sochmen*: and further they joyn the three Letters *T. R. E.* to the first Sentence, which belong to the second, as is clear by the word *modo*, that is a Relative to them. Here cannot be the least colour of any Title paramount to the Donation of the Conqueror.

4.) *Antinorm.*
p. 71. *Fus*
Angl. p. 83.

The Third Instance is in these (4.) words.

A

Hampshire.

Ralph Mortimer held several Possessions, some of which he had, *Jure hereditario*, from before the Reputed Conquest, *Ipse Radulphus tenet Ordie.* This Maner *T. R. E. Extra Ecclesiam emptum fuit, eo pacto, & Conventione, ut post tertium heredem, cum omni pecunia, Manerium Ecclesia Sancti Petri recuperet, nunc qui tenet Radulphus est tertius hares.*

B

5.) *Fol. 46. b.*
Col. 2.

The true Entry of this Maner in *Domesday* (5.) Book is as followeth.

(5.) *Hantescire.*

Terra Radulfi de Mortemer.

C

Radulphus de Mortemer ten. Ordie. Cheping tenuit de Rege E. Tunc & modo se defend. pro una hida Terra est 5 Car. In Dominio sunt 3 Car. & unus villanus, & 27 Bord. cum 2 Car. ibi Ecclesia & 24 Servi & 3 Molini de 60 solid. & 5 acr. prati pro herbagio 40 sol. & 8 Hage in Wincestre de 65 sol. & 4 Den. T. R. E. valab. 25 lib. & post 10 lib. modo 15 lib.

Hoc Manerium T. R. E. extra Ecclesiam emptum fuit eo pacto & Conventione ut post tertium heredem cum omni pecunia, M. Ecclesia Sancti Petri de Episcopatu reciperet, Nunc qui tenet Radulfus est tertius hares.

D

Hampshire.

The Land of *Ralph de Mortemer.*

E

Ralph de Mortemer holds *Ordie*. *Cheping* held it of King *Edward*, then and now it was Rated or Taxed at one Hide, the Land is five Carucates, in Demeasn there are three Carucates, and one Villan, and seven and twenty Bordars, with two Carucates; there is a Church, and twenty four Servants, and three Mills, of Sixty Shillings, and five Acres of Meadow; For *Herbage* Forty Shillings, and eight Houses in *Winchester* of Sixty five Shillings and four Pence. In the time of King *Edward* it was worth Twenty five Pounds, afterward Ten Pounds, now Fifteen Pounds.

F

These Houses
belonged to
this Maner.

This Maner in the time of King *Edward* was bought from the Church, on Condition, that after the third Heir, the Church of *St. Peter* should receive the Maner from the Bishoprick with all the Stock; *Ralph* that now holds it, is the third Heir.

This

A This Maner in all probability King *Edward* had sold out for three Lives, and then gave it to the Bishoprick of *Winch. ster.*, to hold for that term, and after the expiration of those Lives, to his Church of *St. Peter at Westminster.* But whether it was so or not; by the word Heir here is only meant and intended a Successor, not an Heir by Blood or Affinity, and by those words *Ralph wh. ch now ho'ds it,* is the third Heir, can only be so understood as his was the third Life, or that he was the third Successor.

B For *Cheping* the *Saxon* held it before the Conquest of King *Edward*, and *Boztemer* the *Norman* held it after the Conquest. This *Cheping* held several Lands of the King and Bishop of *Winchester* in this County; Of King *Edward* he held *Berrune, Ordie, Sirelei, Botelie, Chenol, Stradelle, Bedeslei, and Candewze*; He held in *Swantune* one Hide of the Bishop and Monks of *Winchester*, which was granted him for his Life only, and then to return to the Church; He also held *Direburne* of the Bishoprick of *Winchester*, *Non potuit recedere ab Ecclesia*; He held of Earl *Herald Silcelstre* in *Aloaium*. All these Towns, Maners, or Lands, are found to be under the Title of *Terra Radulfi de Boztemer* in *Hampshire*, and likewise the Lands of several other Men before the Conquest. *Ezi tenuit, T. R. E. another Ordie, Elwinus Tenuit in Alodium de Rege E. 2. hidis in Nortune. Edric tenuit Anne T. R. E.* These are all under the same Title, and were *Boztemers* Lands after the Conquest; from whence it is more than evident, that he was only Successor, which is expressed here by the word *Heir*, and that he held his Lands by the Donation of the Conqueror, and no other-wise.

The (6.) words of his Fourth Instance are these.

D *Dorsetshire.*

(7.) *Terra Cainorum Regis, in Jus Angl. &c.*

Ten Thains hold *Chimedecome ipsi Tenuerunt T. R. E. pro 1 Manerio.*

E These Thains were the Kings Ordinary Ministers or Servants, which he employed in his Country Affairs and Business, in managing and looking after his Maners and Lands, his Forests, his Fishings, &c. his Deer, his Beeves, his Dayries, Cows, Horses, Sheep, Hogs, Corn in the Granaries, &c. some others were employed in Hunting, Hawking, &c. some were Bowyers, Carpenters, and other Mechanicks and Artificers; and many were small Officers in the Court, those especially that had Lands given them, which they nor their Fathers held in the time of *Edward* the Confessor, others in Cities and great Towns. Now it was most necessary for him to employ the *Saxons* in these Services, for the *Normans* knew not the Country, nor understood the Lands, and could not perform the most of them; And it was then the common practice of this and other Nations, instead of Sallaries or Wages, not only for Princes, but also other great Men, and Gentlemen of Estates, to assign Lands to their Servants, and they made the best of them, by letting them out to

L 1 2

Drudging

(6.) *Antinorm.*
p. 71. *Fus*
Angl. p. 86.

(7.) *Domesd.*
f. 84. a col. 1.

Drudging People, either for Mony, or some part of the Product of them, there being then but little Mony, and Trade not much regarded, Land was the only thing that made all Payments, and gave Credit.

The Crown Lands without doubt he received with the Stock upon them, and his Court (as the use was then) was to be supplied with Venison, Wild Boars, Hogs, and such other Provisions as the Woods and Forests afforded, in their Seasons, &c. and therefore could not find out more proper Servants, nor more fit for his Business, than such as had been employed by King Edward; and though the same Persons did hold the same Lands in the Conquerors time, that they did in his, yet that the Tenure was the same, and as easie as in King Edwards days, no Man, I think, that hath once read this Answer, will readily believe it. 'Tis most certain they had a new Landlord, that they were his Servants and Ministers, that he gave them their Employments, and also the Lands they possessed in consideration of them; so that it were not possible for these sort of Men to have a Title paramount to the Donation of the Conqueror, and we may reasonably conceive that their Tenures under him were much more rigid and hard, than they were under King Edward, and that though they were so, yet they thought it at that time, a very great favour and happiness to them, that they were continued in their Places. That the **Chanes**, the **Taini & Serbientes Regis**, contained under the Titles of **Terra Cainozum**, or **Serbientium Regis**, in almost every County in **Domesday Book**, were the Kings **Ministerial Officers**, and **Servants** of less Note in Court, Cities, great Towns, and the Country, let our Author see his (8.) great and ever famous Mr. **Selden**, for whose Memory he hath the highest Regards, in his Notes upon **Eadmer**, fol. 170. n. 20, 30, 40, 50. and here in **Appendice**, N. 10.

(8.) *Antinorm.*
P. 37.

(9.) *Ibidem*,
P. 71.

His Fifth (9.) Instance is of two Kings Thains in **Staffordshire**, but as in **Dorsetshire** above, so here he hath concealed the Title, under which they were contained, though his Industrious Friend (by what chance I know not) did not in these two Counties.

*Alric holds Stagrifgeshowe } Ipsi has terras tenuerunt, T. R. E. Four-
Aswold holds Chochesdene } teen more hold Titles Prior to King
Williams.*

(1.) Fol. 250.
b. Col. 2.

True Entry in (1.) **Domesday-Book**.

Statfordscyre.

Tit. XVII. Terra Chentwin, & aliorum Cainozum Regis.

Chenwin tenet de Rege tres hidas in Codesball. ipse ten. T. R. E. &c.

*Alric Ten. Stagrifgeshowe, &c. } Ipsi has terras tenuerunt, T. R. E.
Aswoldus Ten. Chochesdene, &c. } The Fourteen others that held
Lands (of so many) of Titles Prior (as he says) to King Williams,
are these under this Title, and were the Kings Servants, as before, in
Dorsetshire, and therefore they had no Title paramount to the Conque-
rors Donation.*

His

His Sixth and last (2.) Instance is of one *Ufred*, who held several Lands in the time of King *Edward*, as in the time of King *William* the First. Besides several Dispossessed, who have their Titles allowed: they have both been so disingenuous, as in this Instance, to conceal the Title of the Kings Servants in *Yorkshire* where this * *Ufred* is to be found. This *Ufred* was one of the (3) Kings

A Title, were such and in the same state other Thanes held them in other Counties, and therefore he could have no Title Prior to that of King *Williams*. Such (as he says) were dispossessed, are under the Title of (4.) *Clamores in Everwicscire*, and the Controversie was between *Norman* and *Norman*, upon King *Williams* Donation, whether they had their Possessions or Estates accordingly, not one syllable of any Claim of an *Englisb-Saxon*, allowance of their Titles, or Restitution of their Estates, as these Gentlemen designed to impose, under general words, the belief of it, upon their Readers.

B He concludes (5.) that these six Instances are enough (referring the more Curious to Mr. *Atwoods* Book, or to the great Survey it self) to bear out his Assertion, that the *Englisb* had Estates and Fortunes still in their hands, which they held in King *Edwards* time, and did not derive under King *Williams* Title. Why were they then entred in *Domesday*, as holding of him? Or such other Persons as did hold immediately of him?

C But your Industrious Worthy Gentleman must not go off thus; Besides these Instances you have thought fit to make use of, he hath very many others, which ought not to pass without Examination, lest it be said afterwards, that you were an Injudicious Person, and knew not how to make choice of such as were most apposite to prove the point.

D He begins with (5.) *Surrey*, and says *Oswald* holds *Michelham*. *Idem Tenuit*, T. R. E. and no more.

In (6.) *Domesday-Book* thus.

Terra Ricardi filii Gilberti Comitis.

E *Oswaldus tenet de Ricardo Michelham, isdem tenuit de Rege E. &c.* Here we see the Interest of King *Edward* in this Mans Land, (that is) the Fee or Dominion of it was given to *Richard* of *Tonebridge* Son of *Gilbert*, Earl of *Brion* in *Normandy*, one of King *Williams* considerable Assistants in the Conquest; and I leave it to the Reader to judge whether he thinks *Oswald* did not make a Composition and Terms with *Richard* to have his Estate again, or held it not of him by a new and more severe Tenure than he did before, or it may be both.

F Then he says (7.) *Seman* holds in *Mideham*, and no more in the Survey, *Tenuit de Rege Edwardo, nunc tenet de Willielmo Rege*. And this is certainly a new Title.

Then

(2.) *Antinorm.*
p. 62. *Fus*
Angl. p. 90.

* See *ibidem*,
p. 90. where
Ufred and
this Entry is
to be found,
amongst o-
thers which
were, though
not there na-
med the Kings
Servants.

(3.) *Terra Tan-*
nor. Regis in
Everwicscire,
Tit. 29.

(4.) *D. m. 61.*

f. 373. a col. 1.

(5.) *Arg. An-*
tinorm. p. 72.

(5.) *Fus Angl.*
p. 81.

(6.) *Fol. 35. a.*
col. 1.

(7.) *ibidem*,
Fus Anglor.

Then he comes to the Kings **Chains**, but hath concealed the Title, and says only, **William** the Hunter holds **Littleton**, **Oswald** holds **Pechingsford**, **Seman** holds one Rood in **Copedorn**, **Oswald** holds **Fecham**, **Theoderick** the Goldsmith holds **Clevintune**, **Chetel** the Hunter holds **Lodesford**.

(8.) Fol. 36. b.
Col. 2.

In (8.) *Domesday-Book* they are thus entred in order,
he hath transposed them.

A

Sudrie.

(9.) Ibidem.
Tit. 36.

(9.) *Oswaldus, Teodoricus, & alii Serbientes Regis.*

Oswaldus tenet de Rege Pechingecorde, ipse tenuit de Rege, E. &c.

* Observe his
Industry in
concealing
this Entry, &c.

In *Copendone Hund. ten. Seman, unam virgata[m] terra* (which was the fourth part of an Hide, not a Rood, the fourth part of an Acre) *quam tenuit de Rege E. sed ex quo venit Willielmus Rex in Angliam * Serbivit Oswaldo, redd. ei 20 den. hic se potuit vertere quo voluit T. R. E. Ipse Oswaldus ten. Feceham ipse Tenuit T. R. E. &c. Teodricus aurifaber Tenet de Rege Chenintune ipse Tenuit de Rege E. &c. Chetel venator tenet Lodesford, Pater ejus tenuit de Rege, E. &c. Willielmus benatoz tenet de Rege Liteltone, ipse tenuit de Rege, E. &c.* These had been King **Edward's** Servants, and they were continued in their **Employments** and **Salaries** by King **William**, which were in Lands holden of him, and therefore had a new Title from a new Landlord, and as may be reasonably presumed, upon worse terms than under King **Edward**.

B

C

Hampshire.

(1.) *Fus Anglor.* p. 82.

Terra (1.) Cainozum Regis.

D

Alwi the Son of **Saul** holds **Tederly**, his Father held it in **Alodium** of King **Edward**, **Uluric** holds **Locherley**, four **Englishmen** hold **Wallop**, **Edmund** holds Lands of the King, &c. after the same manner to the number of thirty three of the Kings **Tains** and **Servants** in **Hampshire**, the Isle of **Wit**, or **Wight**, and about the New Forest.

In *Domesday-Book* thus.

E

Hantescire.

(2.) Fol. 50. a.
Col. 1.

Terra (2.) Cainozum Regis.

1. *Alwi filius Saulf ten. de Rege Tederleg. pater ejus Tenuit in Alodio de Rege E. &c.* but how he held it of the Conqueror it is not said there.

F

2. *Uluric tenet Locherley de Rege pater ejus tenuit de Rege E. pro Manerio, &c.*

3. *Quatuor Angli tenent de Rege Wallope, pater eorum tenuit in Alodium de Rege E. &c.*

4. *Edmundus*

4. *Edmundus tenet de Rege Mulceltone, pater ejus tenuit de Rege E. &c.*

And thus, after this manner are all his Citations in this County, and so in the New Forest.

In (3.) *Nova Foresta & circa eam.*

(3.) *Ibid. fol. 51. b. col. 1.*

Terra Cainozum Regis.

1. *Femina Saulf tenet de Rege Hoburn, Saulf tenuit de Rege E. &c.*

2. *Ulgar habet de Rege unam virgatam Terra in Melleford, ipse Tenuit de Rege E. And so for others.*

Terra (4.) Cainozum Regis in Insula de With.

(4.) *Ibid. fol. 53. b. col. 2.*

1. *Oriant ten. Celvecrote pater ejus Tenuit de Rege E. &c.*

2. *Alsi ten. de Rege Abaginge ipsemet tenuit de Rege E. in alodium, &c.*

And so of others in this Island; And note, that all who held under the direct and immediate Title of the *Terra Regis*, or Kings Lands, or the Title of *Terra Tainorum Regis*, did hold of the King, whether it was expressed or not, the Title under which they held being a sufficient demonstration of that.

(5.) *Barkshire.*

(5.) *Fus Anglor. p. 84.*

Terra Odonis & aliorum Cainozum, left out here.

1. *Walter holds one Hide in Ceneleberie, which King Edward gave his Ancestors, in the Margin, de firma sua solut. ab omni Consuetud. propter Forestam Custodiendam excepta forisfactura Regis, &c. He was the Kings Forester.*

2. *Edward holds one Hide in Coserige, he held it in Alodium of King Edward. **

3. *Alward the Goldsmith holds Sotesbroc. In the Margin, pater ejus tenuit de Regina Edw. and so for others he mentions in this County.*

In *Domesday* (6.) Book thus.

(6.) *Fol. 61. b. col. 1.*

Berrochescire.

Terra Wallerii, f. Other.

Walterius filius Otherii tenet dimid. Hidam quam Rex Edwardus dedit ejus Antecessori, de firma sua, & solutam ab omni Consuetudine, propter Forestam Custodiendam, excepta forisfactura Regis, sicut est, Latro-

Lutrocinium, & Homicidium, & Henifara, & fracta pax val. 5 sol.
And then follows.

(7.) *Ibid. fol.*
63. b. 1. col.

Terra (7.) Ddonis & aliorum Cainorum.

1. *Edwardus Tenet de Rege* (left out in our Author) *1 hidam in Coferige, ipse tenuit in Alodium de Rege E.*

2. *Alwardus Aurifaber tenet de Rege Sotesbroc, pater ejus tenuit de Regina Edid, &c.* She was King Edwards Queen.

(8.) *Fun Angl.*
p. 85, 86, 87,
&c.

At this rate he rambles through (8.) fifteen Counties, and leaves out the Title of *Terra Cainorum*, or *Servientium Regis*, under which very near all the Persons he musters up did hold, in all of them, except three; And always says only such an one holds, and such an one holds, but not of the King, he never answers the meaning of *Domesday Book*, or the Conquerors Survey, which either by the Title, or express words besides the Title, (such as) *tenet de Rege*, or *Tenet de Comite Rogero*, or *de Radulpho Dorrimer, &c.* discovers whose the Lands, or at least, the Fee of the Lands was.

(9.) *Ibidem,*
p. 91, 92.

And having pleased his own Fancy, and cheated his Reason and Understanding, he says, in these (9.) fifteen Counties (of thirty described in *Domesday*) there were above one hundred and eighty Freeholders, who derived not under King Williams Title.

Here I shall ask him (notwithstanding he hath industriously endeavoured to conceal it) whether very near all these Persons he hath mustred up in the several Counties were really King Williams Servants and Officers? Secondly, Whether he gave them their Employments, or which is all one continued them in them? Thirdly, Whether he gave or continued to them the Lands which they held for these Services and Employments? Fourthly, Whether by his great power he might not turn them out of their Employments and Estates, and put in others? If these Persons were his Servants and Thains, if he gave them, or continued them in their Employments and Lands, if he could take them away, and give them to others at pleasure, which no man of sense or reason can deny, or if *Domesday-Book* and the Survey be true, what becomes of these hundred and eighty Freeholders, that derived not under King Williams Title? they are vanished, but his most notorious Industry, and his Worthy Usage of one of the greatest and noblest Records of the Nation, do still remain.

(1.) *Arg. Antinom.* p. 72.
(2.) *Ibidem,*
p. 73, 74.
(3.) *Vid. Append. n. 2, and 3.*
King William restored Church Lands, but altered the Tenure.

Having urged the six Instances he took upon the Credit of his Industrious and Worthy Friend, our Author offers (1.) three more, from so many Charters of King William. The two first are Charters of Restitution of Lands to the Church of (2.) *St. Pauls*, and the Abby of *Westminster*; This we do acknowledge, and yet nevertheless he was a Conqueror; He (3.) Restored all Church Lands, but changed the Tenure, and put most of them under Military Tenure, that before were holden in *Franc Almoign*, or *Pure Almes*, and not only so, but changed likewise the Possessors of them, for in a short time after the Conquest most of the Bishops, Abbats, and great

great Churchmen were *Normans*, the *Saxons* being thrust out and they put in, as doth appear in the History of *William* the First; and this was almost the same practice he used in disposing of Lay or Temporal Mens Estates, for the Fee of all these Estates remained in himself.

He turned out
Saxon Bishops,
and Abbats,
and put in
Normans.

A The third is the (4.) Charter of *London*. *William* King greeteth *William* Bishop, and *Godfrey* ~~Port-Rebe~~, or ~~Portgerebe~~, and all the Burgesses within *London*, French and English, and I grant that they be all Law-worthy, as they were in *Edwards* days the King, and I will that each Child be his Fathers Heir, and I will not suffer that any Man do you wrong, and God you keep.

(4.) Arg. An-
tinorm. p. 74.
in Saxon.

B Upon this Charter I shall observe, that these Priviledges were pro-
cured by (5.) this *William* Bishop of *London*, who was very in-
ward with King *William*, and of his Council, as it was acknow-
ledged in the Inscription upon his Monument in *St. Pauls* Church
which was erected by order of a Common * Hall. Secondly, I ob-
serve, that this Bishop died in the year 1070. and that this Charter
was granted before that time, and therefore no great stress can be
laid upon it, for the great Promises he made to the *English-Saxons* in
the beginning of his Reign, and at his first Entrance, he never much
regarded, when he had totally subdued the Nation. Thirdly, I
C shall observe, that this Charter contained no other Priviledges,
than that the Burgesses should be Law-worthy, as they were in *Ed-
wards* days the King, that is, they should enjoy the Privileges that
belonged to them as Merchants, Tradesmen, Mechanicks, and Arti-
ficers, and meerly such, for the carrying on their own Business and
Employments, and the Laws, Usages, and Customs only that be-
longed to such Affairs, and by which they were managed and re-
gulated in his time; No Man can imagine they medled then with
D Politicks, or once offered to meddle with the Government of the
Nation, or directed King *William* how to Govern, or that they can
pretend he ever by this Charter could give them such liberty, or
permit them so to do; All they could expect or pretend to from
this Charter, was, the free use of their Calling, the enjoyment of
their Estates and Goods, and that their Children should be their
Heirs, and protection from Violence.

(5.) Godwin.
de præsul. p.
232.

* S. P. Q. Lon-
dinenf. posuit.

What was
granted to the
Citizens of
London by K.
Williams
Charter.

E He did not that I have read of, take away Merchants or Traders
Goods, in any City or Burgh, nor put them out of their method and
way of Trading, for that had been much to his disadvantage; He
built Castles and Cittadels in many of the Cities and great Towns,
and raised their Tolls and Customs, in some he doubled them, and
with the security of his many Garisons and a great Army, it was
more for his profit to maintain Trade than destroy it.

The Conque-
ror did not
take away
Merchants
Goods.
But increas'd
the Toll and
Customs of
Cities and
Burghs.

F T. R. E. val. (6.) *Eboraci civitas Regi 53 lib. modo C. lib. ad
pensum*. In the time of King *Edward*, *Tork* paid to the King Fifty
three pounds, now One hundred by Weight.

(6.) Domesd
f. 298. a. col. 2.

T. R. E. (7.) *Oxeneford reddebat pro Theloneo, & Gablo & omnibus
aliis Consuetudinibus per annum Regi 20 lib. & 6 Sextaria Mellis, Comiti
Algaro 10 lib. adjuncto Molino quem infra Civitatem habebat, modo
reddit Oxeneford 60 lib. de 20 in ora.*

(7.) Ibid. m.
f. 154. a. col. 1.

* A Sextary in Liquids, was an uncertain Measure, sometimes a Pint, sometimes a Quart, a Galon, four Galons, here I take it to be a Galon.

(8.) Ibidem, f. 56. b. col. 1.

In the time of King Edward, Oxford paid for Toll, Gable, and all other Customs and Payments, by the year to the King, Twenty Pounds, and six * Sextaries of Honey, to Earl Algar Ten Pounds, his Mill which he had in the City being added, now it pays Sixty Pounds of twenty in an Ore; it was a Danish word, and whether it was an Ounce in weight or Coyn, it is doubtfull, there were several sorts, one contained 16 Denarii or Pence, another twenty, another twelve, another thirty, an Ore and a Shilling in this manner of computation was the same.

A

T. R. E. (8.) Wallingford valb. 30 lib. & post 40 lib. & tamen Reddit de firma quater 20 lib. ad numerum.

In the time of King Edward, Wallingford was valued at 30 l. afterwards 40 l. now (that is at the time of the Survey) 60 l. besides the Farm Rent which it pays 80 l. by Tale.

B

(9.) Ibidem, f. 36. b. col. 2.

T. R. E. (9.) Dabat. (9.) Stanford 15 lib. modo dat ad firmam 50 lib. de omni Consuetudine Regis dat 27 lib.

In the time, &c. Stanford gave 15 l. now it pays Farm Rent 50 l. and for all Payments to the King 28 l.

(1.) Ibidem, f. 280. a. col. 1.

T. R. E. (1.) Snotingham redd. 18 lib. modo reddit 30 lib. & 10 lib. de moneta.

C

In, &c. Nottingham paid 18 l. now it pays 30 l. and 10 l. for liberty of Coynage, the Coyners or Monetarii paid this.

(2.) Ibidem, f. 290. b. in the little Book.

T. R. E. (2) Gepestwic Reddebat 15 lib. & 6 Sextarios Mellis, & 4 sol. ad Consuetudinem Mellis, & 8 sol. ad prebendarios, & Rogerus vicecomes dedit totum ad firmam pro 40 lib. ad festum Sancti Michaelis, postea non potuit haber censum & ex hoc Condonavit 60 sol. modo reddit 27 lib. & Monetarii reddebant per annum T. R. E. 4 lib. pro Moneta. modo debent reddere 20 lib. sed de quatuor annis non reddiderunt nisi 27 lib. & Comes semper habet tertiam partem.

D

In, &c. Ipswich paid 15 l. and six Sextaries of Honey, and four Shillings for the Custom of Honey, and eight Shillings to Prebendaries, and Roger the Sheriff let the whole Town to Farm for 40 l. at the Feast of St. Michael, but could not get the Rent, and therefore he abated 60 s. now it Rents for 37 l. and the Moneyers or Coyners paid for the liberty of Coynage by the year, in the time of King Edward 4 l. now they ought to pay 20 lib. but these four years they have paid only 27 l. and the Earl always had the third part.

E

(3.) Little Book, f. 117. a. * Gersuma the Saxon word signifies Reward, Riches, Treasure, or Money paid beforehand, but if Gersuma for ingersuma, (as it is sometimes written) then 'tis ingressus summa, a Fine or Income.

T. R. E. (3.) Norwic. reddebat 20 lib. Regi, & Comiti 10 lib. & prater hoc 21 sol. ad Prabendarios & 6 Sextarios Mellis, & 1 ursum & 6 canes ad ursum & modo 70 lib. ad pensum Regis & C. sol. ad numerum, de * Gersuma Regina, & 1 Asturconem, & 20 lib. Blancas Comiti & 20 sol. Gersuma ad numerum.

F

In, &c. Norwich paid 20 l. to the King, and to the Earl 10 l. and besides this 21 s. to Prebendaries, and six Sextaries of Honey, and one

one Bear, and six Bear-Dogs, now it pays 70*l.* according to the Kings Standard, and 100*s.* by Tale, the Queens Money, or a Fine or Income to the Queen, and one Pad or Palfrey, and 20*lib.* of Silver to the Earl, and 20*s.* by Tale for an Income or Reward.

- A Besides their Customs, Payments, and Tolls, they were liable to Mulcts, and Forfeitures for Crimes, nay, many or most of the very Houses in many Burghs and Cities, and may be in some all were divided amongst the Normans, as in Northampton, Warwick, Southampton, Stadford, and others. In other Burghs the Burgesses paid Money to the Normans their Patrons, as perhaps they did to the Saxons
- (4.) Bochingheham. In hoc Burgo Episcopus Constantiensis habet tres Burgenses. Quos tenuit Wulward filius Eddere, hi reddunt sex solidos & sex denarios per annum & Regi reddunt undecim Denarios. Hugo Comes habet unum Burgensem qui fuit homo Burcardi de Senelai hic reddit 26 Denarios per annum & Regi Quinque denarios. Robertus de Olgi, habet unum Burgensem qui fuit homo Azor. f. Toti. hic reddit 16 denarios & Regi Quinque Denarios. Hugo de Bolebec habet quatuor Burgenses, qui fuerunt homines Alrici, hi reddunt 28 Denarios, & Regi 12 Denarios; And thus were all the 26 or 27 Burgesses that were in this Town at the time of the Survey distributed amongst the Normans, and so in many other Burghs, see Pevenfel, Arundel, &c. Gapeswic.
- (5.) In Burgo erant T. R. E. 538 Burgenses reddentes Consuetudinem Regis & habebant 40 acr. Terra. Modo vero sunt, 110 Burgenses qui consuetudinem Reddunt & 100 Pauperes. Burgenses qui non possunt reddere ad Geltum Regis (that is the Kings Custom or Payment) nisi unum Denarium de suis Capitibus, & inter Totum simul habent 40 acr. Terra & 328 Mansiones vastata sunt in Burgo que T. R. E. Scottabant ad geltum Regis.
- B
- C

(4.) Domest. f. 143. col 1.

(5.) Ibidem, f. 290. d.

- D These were the Liberties and Priviledges that other Cities and Burghs enjoyed under King William, what the condition of London was at the time of making this Survey cannot easily be known, for neither that City nor Winchester, nor Abington in Barkshire, nor some few others of less note are to be found there; what ever Trading Priviledges and security of their Goods they at first obtained, was from the kindness and intercession of their Bishop, William the Conquerors great Favourite, and if they kept them after his death, it was by their great submission and obedience to his Government, but as to their Customs and Payments, and their Tenures likewise,
- E no Man can think but they bare a proportion to other Cities and Burghs.

- F Thus much for his own three Instances; He comes next to the general (6.) direction of Charters and Writs in King William the First his time (as he says) from which he avers it plainly demonstrable, That William the pretended Conqueror, did not divide all the Lands of England amongst his Norman Followers.

(6.) Arg. Antinorm. p. 80. Fus Angl. p. 124.

The first Charter (7.) is directed by King William to Osmond Bishop of Salisbury, Robert of Ely, (probably Sheriff of Hertfordshire) and Peter of Valoings Sheriff of Essex, to instate Maurice Bishop of London in (8.) Stortford, now Bishop Stortford Castle and other Lands. This Maurice a Norman was Consecrated Bishop of

(7.) Antinorm p. 80.

(8.) Dugd. Hist. of St. Pauls in Appendix. f. 196.

London 1087. in the last year of *William* the First; and whether this was the Charter of *William* the First, or *Rufus*, it may puzzle them to make it out. The second is a Saxon Charter of King *William*, but of which King *William* I have not enquired.

* *Antinorm.*
p. 81.
(9.) *Monast.*
vol. 1. f. 185.
n. 10.
(1.) *Godw. de*
presul. p. 341.
* *Antinorm.*
p. 81.
(2.) *Monast.*
vol. 1. f. 397.

The * third is a Charter of King *William*, but it must be of *William Rufus*, for (9.) *Robert* Bishop of *Lincoln*, which was *Robert Bloet* was a Witness to it, and he was not (1.) Consecrated Bishop of *Lincoln* until 1092. the sixth of *Rufus*.

A

The fourth * is a Charter of King *Williams*, but it was of *William* (2.) *Rufus*, though the Author of *Jus Angl. &c.* boldly affirms it was the Charter of *William* the First, pag. 124. when as in the same Folio that he cites, (2.) the Column, and the very next numbers, he might have seen it was *Rufus* his Charter, as appears by these words. *Anno Domini 1088. fundata fuit Abbatia Sanctæ Mariae, per Dominum Stephanum primum Abbatem ejusdem, Anno Regni Regis Willielmi, filii Regis Willielmi primo.* And *Rufus* confirms the Gift of *Ralph Mischines* Earl of *Cumberland*, of the Maner of *Wederhall* to this Abby which was a Cell of *St. Mary's* in *Tork*; See *Monastic. Angl. f. 397. col. 2. n. 30, 40, 50, 60.* Are these just and fair Citations? to affirm these Charters to be Charters of *William* the Conqueror, when they were his Sons *Rufus*.

B

(3.) *Antinorm.*
p. 81.
(4.) *Monast.*
vol. 1. f. 29.
col. 2. n. 20.

The fifth is a Charter of King (3.) *Williams*, but of *William Rufus* likewise, for *Robert* (4.) Bishop of *Lincoln* is a Witness to it, and was Consecrated as before.

C

* *Antinorm.*
p. 82.
(5.) *Ibid. Monast.*
n. 40, 60.

The * sixth and seventh are about the same business of the Church of *Rochester*, with the fifth, and therefore probably by the same King, seeing they do immediately follow it in the same Column, and next numbers in the *Monasticon*, though 'tis not clear what time the Witnesses lived and died.

D

* *Antinorm.*
p. 82.
Caerliel.

The * eighth as 'tis to be found in *Monast. vol. 2. f. 845. col. 1. n. 60.* runs thus. *Will. Rex Angl. G. vicecom. & Baronibus suis de Caerliel salutem. Volo & precipio ut ita intendatis, de Christianitate ad Archidiaconum Dunelm. sicut intendebatis Tempore Willielmi Episcopi Dunelm. Teste E. dapifero.* This was to the Inhabitants of *Carlisle*, that they should submit or repair to the Court of the Archdeacon of *Duresm* as formerly in the time of *William* Bishop of *Duresm*, who laid one of the three first Stones of the Cathedral Church in *Duresm*, *Anno Domini 1093. Aug. 11.* and died *Anno Domini 1096. Decimo Rufi. Godw. de presul. Dunelm p. 108, 109.*

E

* *Monast. vol.*
2. f. 845.

The ninth is of King *William*, but of King *William Rufus*, for it is a * Restitution of *Ralph* Bishop of *Duresm* to several Lands, and he was not Consecrated until the Thirteenth of *Rufus*, the Bishoprick being void three years and four Months after the death of *William* aforelaid, *Godw. de presul. p. 109.*

F

(6.) *Antinorm.*
p. 82.

The three (6.) that follow are the Charters of *Henry* the First, and thus I have given some check to *Antinormanicum's* Confidence in affirming, that the Charters he cites were the Charters of *William* the

the

A the First. But be they who they may, the Directions of them, *Baronibus & fidelibus suis Francis & Angliæ*, which he so much insists upon, signifie nothing, they were but words of course and common Form, and expressed no more the Quality, Nation, or State and Condition of those Persons, than the words, *Omnibus Christi fidelibus, notum sit omnibus, noverint universi, sciant tam futuri, quam presentes, or sciat universitas vestra* did in old Charters, by which they were directed to the whole World; when such Charters with such Directions concerned only particular Persons, and the Contents of them were about particular Matters.

B Yet if any one desires further satisfaction, let him see the Glossary in the words *Angli & Franci*, and I may hope he will be induced to believe, by what is said there, that if these Directions were of any Consideration, yet the *French* and *English* Barons and Fideles or Vassals there meant, were *English* and *French-Normans*, and not *English-Saxons* and *Normans*.

C From the Directions of these Charters he proceeds to two (7.) Branches of King *William* the First his *Magna Charta*, viz. (8.) to Law or Chapter 55, and 63. these two Laws have been sufficiently spoken to before in this Answer, where it hath been made appear that neither of them were made with respect to the *English-Saxons*; Here I shall only remark, that he hath culled out what he thought made for his purpose, and left out two intermediate Laws, viz. the * 58, and 59. that would have told him for whose sake these Laws were made, and who the Freemen were that were to have the benefit of them, to wit, all the Freemen of the Kingdom that held Lands by the Gift of the Conqueror confirmed by Common Council, to furnish themselves, and be ready with Horse and Arms, to defend his Crown and Dignity against his Enemies, (which perhaps our Author will not think were *Normans*) when he hath well considered the matter.

E Next, as he (9.) says, he troubles his Reader with one more memorable Record as late as to the 25 *Hen.* 3. which shews, that from before the coming in of this *Norman* Conqueror, down to that time, the *English* had a property continued to them; and so then, this mighty Man of Victory did not govern them as an intire and absolute Conqueror, whatever our late Writers have been pleased to publish to the World.

The words of the Record are.

F Rex (1.) *Baronibus, Mandamus vobis quod occasione arrentationis serjantiarum assessæ per Robertum Passelwe non distringas Jacobum de Archangere, per 2 Marc. & dimid. de tenemento quod de nobis Tenet per serjantiam in Archangere, in Comitatu Southampton, &c. per chartam Beati Regis Edwardi Antecessoribus ipsius Jacobi super hoc Confectam. Sed ipsum Jacobum de predictis 2 Marcis & dimid. quietum factatis in perpetuum Quia chartam Beati Edwardi Confirmavimus, & ipsam volumus inviolabiliter observari.*

(7.) *Antinorm.*
p. 84. Mr. Pe-
ty's Preface,
p. 12, 3. *Fus*
Angl. p. 128,
129.
(8.) *Selden not.*
ad Edm. f.
190. n. 40. f.
191. n. 20.
* *Ibid. f.* 191.
n. 12, 20, 30.

(9.) *Antinorm.*
p. 85, 86. *Fus*
Angl. p. 112,
113.

(1.) *Comun de*
Term. Mich.
as there cited,
36 *Hen.* 3.
Pro Jacobo
Archangere.

In

In English thus.

(2.) *Antinorm.*
p. 87.

The King (2.) to the Barons (of the Exchequer) We Command you that by the occasion of the Rent of Serjanties, assessed by Robert Passelewe, you shall distrain Jacob of Archamgere, by two Marks and an half for the Estate or Tenement he holds of Us by Serjanty, in Archamgere in the County of Southampton, &c. by Charter of King Edward made to the Antecessors of this Jacob concerning it, and this Jacob of the aforesaid two Marks and an half, you shall quit for ever, because we have confirmed the Charter of the aforesaid St. Edward, and we will have it to be inviolably observed.

A

(3.) *Ibidem,*
p. 88.

The invalidity and insufficiency of this Record to prove what our Author would have it, viz. That the (3.) English were not put out of their Properties, which they held and enjoyed in the time of Edward the Confessor, but that they still enjoyed them as before, notwithstanding all the vain pretences to the contrary, shall be shewn by this more Authentick and Ancient Record.

B

(4.) *Domes-*
day-Book.

Hantescire, (4.) f. 49. b. col. 2.

Terra Cainozum Regis.

Edvinus Tenet Acangre, & dicit quia emit de Rege Willielmo, sed Scira nescit hoc. Alwi Tenuit de Rege Edwardo, & nunc Richardus tenet de Edwino, T. R. E. se defendebat pro una hida, & una virgata, Terra est Quatuor Carucarum, in Dominico sunt Dua & octo villani & 5 Bordarii cum tribus carucis, & duo servi & dua acra, prati, T. R. E. & post valuit 40 sol. modo 60 sol.

C

The Kings Servants Land.

D

Edwin holds Acangre, and says, because he bought it of King William, but the Shire knows not this. Alwi held it of King Edward, and now Richard holds it of Edwin. It defended it self, or was taxed and valued at one Hide, and one Virgate, the Land is four Carucates or Ploughlands, there are two in Demeasn, and eight Villans and five Bordars with three Ploughs, and two Servants, and two Acres of Meadow; In the time of King Edward and afterward it was worth 40 s. (by the year) now 3 l.

E

This Acangre must be that place which was afterward called Archamgere, or there was no such place in Edward the Confessors or the Conquerors time in this County. This was holden in Serjanty at the time of the Conquest, for Serjanty signifies no more than Service, and this Land was holden by one of the Kings Servants, as appears by the Title, and there can be no doubt but he performed his Service for which he held it. When the Condition of Lands was changed, and they began to be improved, and our ancient Kings let many of them out in Fee-farm, there was no need or Employment for many of these Servants, and then their Services began to be changed into Mony, and to be rated by the Kings Officers; This was the care here, and James Archamgere pleads a Charter of King Edward the Confessor

F

A Confessor in discharge of such Assessment, which was allowed. The Judges, as hath been before observed, were imposed upon by a false Descent in the *Prior* of *Coventry's* Case; and 'tis very probable in this case they were imposed upon by a forged and false Charter of King *Edward*, for if they had had Recourse to *Domesday-Book*, they would have found that the Antecessors of *Archanger* could not be Kindred or Ancestors in Blood, but only in Possession, and that King *Edwards* Charter, if any such were, could make nothing for this Person; for *Alvi* that held it of King *Edward* in his time, was outed, and *Edwin* had possession of it, and held it of King *William*, and *Richard* under him; nor can it be true that *Archanger*, or any one that had the possession of it before him, was in possession of this place, as well in the Confessors as Conquerors time, and therefore it cannot be proved from this memorable Record, that the *English* still enjoyed their Properties in the time of King *William*, as they had done in the time of King *Edward*.

B At last our Author shuts up this Point with (5.) two or three Passages of *Ozdericus Vitalis* which he had from *Pitaviensis*, and which have been fully Considered in the beginning of this Answer, as likewise his Deductions from these Passages, and those words of *Pitaviensis*, (6.) *Nulli tamen Gallo datum est, Quod Anglo cuiquam injuste fuerit ablatum.* And therefore I refer the Reader to what hath been said there.

(5.) *Anti-norm.*
p. 88.

(6.) *Ibidem*,
p. 93. & *Fus*
Arg. p. 115.

The Fourth Question is,

Whether (7.) it be not a grand Error to affirm, that there were no *Englishmen* in the Common Council of the whole Kingdom?

(7.) *Antinorm.*
p. 95.

D The main (8.) pinch and strefs of this Question our Author says, is, whether after *William* the Conqueror had settled himself as well as he could on the *English* Throne, he did admit any of the *English* to sit in the great Council of the Nation, and to Advise and Consult de *Arduis, & urgentibus negotiis Regni.*

(8.) *Ibidem*,
p. 96.

E By thus laying down the pinch and strefs (as he calls them) of this Question, he hath not only truly stated it, but likewise all the other three, by reducing them to their true time, wherein we ought to make a Judgment of King *Williams* Actions, Government, and Behaviour in this Nation.

F But in this very (9.) Paragraph he says, that the grand Court of Parliament was in substance the same, that it was before the coming in of this Conqueror, and that there were *Englishmen* Members of it in the time of the Conqueror; The first is easily granted him, if he means, the Great Council or Parliament consisted of the same Head and Members, that is, of the King, Bishops, Abbats, and the Baronage or Nobility. But for the other he is to recollect himself, where the pinch and strefs of the Question lies, and then let him tell me whether he thinks after King *William* had fully Established himself in the *English* Throne, he called any of the *Saxons* to his Great Councils.

(9.) *Ibidem*.

Yet

(1.) Ibidem.
p. 97, 98, 99,
100.

(2.) Du Chesne
*Antiquit. des
villes, &c.* p.
938.

(3.) Berault
in the local
Customs of
these Places.

(4.) Old Cu-
stom, c. 2. &
c. 30.

(5.) *Antinorm.*
p. 100.

(6.) {
(7.) { Ibid.
(8.) { p. 101.
(9.) {
(1.) {

Yet prove it he will, from the continuance of (1.) lesser Courts, as County Courts, Hundred Courts, and Court Barons, after the Conquest. It will not be denied but that County Courts and Hundred Courts did remain, that is, there were Courts holden in such Portions of the Nation as Counties were, for such Portions; and in such Divisions of Counties as Hundreds were, for such Divisions, that right might be done in them for the ease and conveniency of the People, (for the Nation was divided into such Shares and Portions long before the Conquest) but that the same Law, and the same Course and Method of Proceedings was used before and after the Conquest, remains yet to be made appear. In many things the *Norman* and our *Saxon* Laws agreed, as being derived to both from *North-Germany*; and though in *Normandy* there was no County or Hundreds, yet there were Bayliwicks which resembled our Counties, and Viscounts which resembled our Hundreds, though perhaps they were much larger. There was and is in *Normandy* seven (2.) principal Bailliages or Bayliwicks, viz. of *Roven*, *Caen*, *Caux*, *Consten-tin*, *Eureux*, *Gisors*, *Alencon*, and every one of these had their Bay-liff or chief Officer who was Judge in the Bayliwick Court, and hence it is that in our old Law Books and Records, and in some Law Proceedings, a County is called *Baliva*, and hence also the reason of the Form of the Return, *Non est inventus in Baliva mea*. As be-fore was noted, ~~Hundreds~~ there were none, but many Vicounties and Liberties, as the Vicounty of *Roven*, of *Caen*, of *Bayeux*, of *Fal-laise*, of *Gisors*, of *Vernon*, of *Caudebec*, and (3.) thirteen more, which had their Jurisdictions in and over many Villages, as to mean Justice, and Pleas of smaller matters than those of the Bailliage, that were holden from fifteen to fifteen days, and at this day ordinary Judges in Villages are called Vicounts in many places in *Nomandy*. Lastly, as to Court Barons, or Lords Courts in their several Maners, the *Saxon* Lords had a Jurisdiction of their Tenents and Residents in their Fees, but not the same Fiefal or Feodal Jurisdiction which the (4.) *Normans* brought with them, nor was there the same Law, Form, Usages, and Proceedings in *Saxon* Maners and Jurisdictions Fe-dal, as since the Conquest; for the Terms, Usages and Forms of Proceedings we yet retain in the Courts-Baron, we received from the *Normans*. Who will have further satisfaction in this point, let him peruse the parallel between the *English* and *Norman* Laws in the Preface to the *Norman* Story. But what if it be granted, that he did permit these small Courts of Justice to remain, and have their course in such matters as touched not his Government and Establish-ment, certainly he might be a Conqueror notwithstanding that.

From the small Courts, he comes to the (5.) Sovereign Court of Parliament it self, to shew what it was, and of whom it consisted in the *Saxon* times, and for this he thinks it (6.) needless to give any more than one Instance, which does (7.) impregnably assert, That the Commons of *England* were an Essential and Constituent part of the *Saxon* General Councils, and fully and clearly (8.) refute and baffle that Novel Erroneous Notion, that there are no Commons to be found in the *Saxon* Great Councils, nor any thing that tends towards the proof of the Commons of those times, to have had any share in making Laws in those Councils; and his (9.) Memorable Instance is the (1.) mighty Law of Tithes (as he calls it) which was made and ordained.

(2.) A

(2.) *A Rege, Baronibus, & Populo.*

These are indeed mighty words for a little Man, he thinks this Law was made in King *Edwards* days, and was Piping-hot when the Conqueror came in, but it will prove otherwise upon examination of it, and also doubtful whether there was ever such a Law or not, made by a *Saxon* Monarch or King. For after the (3.) Law hath enumerated, the maner of Tithing in very many things both great and small, requiring an exact Tenth to be paid for most of them; it says, that he which detains the Tenth, if need be, may be forced to payment by the Justice of the Bishop and King, and then immediately follows these words. *Hec enim predicavit Beatus Augustinus, & Concessa sunt a Rege, Baronibus & Populo. Sed postea instinctu diaboli, Multi eam detinuerunt, & sacerdotes locupletes negligentes, non Curabant inire laborem, ad perquirendas eas, eo quod sufficienter habebant sue necessaria vite.* These things St. *Augustin* Preached up, and they were granted by the King, Barons, and People, but afterwards by the instinct of the Devil, many detained them, and the rich Priests were negligent, not caring to be at the trouble to recover them, having sufficient for their own support.

Hence 'tis evident, that these Concessions of Tithes were made in the time of St. *Augustin* upon his Preaching, that is, of *Augustin* Arch-Bishop of *Canterbury*, sent hither from *Rome* in the Reign of *Ethelbert* King of *Kent*; for the words, & *Concessa sunt a Rege, Baronibus, & Populo*, can relate to no other than the words immediately preceeding, *Hec enim predicavit Beatus Augustinus*. And the words next following them do also prove the same; *Sed postea instinctu Diaboli, Multi eam (Decimam, viz.) Detinuerunt, &c.* which was after they were granted by the King, Barons, and People, so that this was at most but the Confirmation of a Law made by King *Ethelbert*, and how, and by what words the Legislators were expressed, near 500 years after the Law made, or how they were rendred in *Latin* after the coming of the *Normans*, transiently and without design to give an account of them, cannot be of much value to prove who they were; and that the Laws of King *Edward* were made, or at least Translated into *Norman Latin* after the Conquest, appears by the words, *Comites, Barones, Milites, Servientes, Servitium, Villanus, Catalla, Manuteneri*; all *Norman* words, and not known here until their coming hither. He that will assert any thing from a single uncouth Expression in one case, and upon one occasion only, brings but a slender proof for what he says. *Rex mandavit*, says (4.) *Florence* of *Worcester*, *ut Archiepiscopi, Episcopi, Albates, Comites, Barones, Vicecomites, cum suis Militibus, die Calendarum Augusti sibi occurrerent Searesberie. Quo cum venissent Milites eorum, sibi fidelitatem contra omnes homines Jurare Coegit.* *Simeon* of *Durham*, and *Hoveden* have the very same words: *Hen.* of *Huntington* somewhat strangely, explains this Meeting, and expresses it otherwise, (5.) *Willielmus Rex*, (saith he) *accipiens Hominum omnium Terrariorum Anglie, Cujuscunque feudi essent, juramentum etiam fidelitatis recipere non distulit.* Here the *Milites*, such as held Lands in Military Services, of the Arch-Bishops, Bishops, Earls, Barons, &c. are called *Terrarii*. Would any Man therefore think these *Terrarii*

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were

(2.) *Ibidem.*
Lamb. Ll. Edw.
Reg. c. 8. f.
139.(3.) *Lamb.*
Ibidem.(4.) *Fol. 641.*(5.) *Fol. 112.*
A. N. 20.

(6.) Col. 487.
n. 60.

were ordinary Landholders, and Terr-Tenents; surely not, they did no Homage. *Ralph de Diceto* expresseth it yet more uncouthly, (6.) *Rex Willielmus Convocatis tam Clero, quam Baronibus, apud Searesberie, omnes sibi fidelitatem Contra omnes homines jurare Coacti sunt*; Doth any Man think that the Arch-Bishops, Bishops, and Abbats (here meant by the Clergy) were not Barons, because *Ralph de Diceto* says upon this occasion only, that he called together as well the Clergy as the Barons?

A

(7.) Ll. 17.
Edw. Lamb.
fol. 142.

So will any Man think, because 'tis said in one of King (7.) *Edwards* Laws, and perhaps no where else, concerning the Kings Coronation, *Quod debet in propria persona coram Regno, & Sacerdotio, & Clero jurare antequam ab Archiepiscopis & Episcopis Regni coronetur*. That the Priests were not Clergymen, nor the Clergymen Priests; and that the Arch-Bishops and Bishops were neither? Many other uncouth Expressions do often occur in the old Monks, which are to be interpreted according to the common usage and practice of the times in which they are delivered; and therefore seeing before the time of the Conquest, and for two or near three Centuries of years after-

B

(8.) See Answer to Mr. Petyt, f.

ward, the Commons (as at this day understood) were not (8.) called, nor did come to Great Councils or Parliaments. By **Barons** here must be meant the great Barons, and by **Populus**, the *Communitas Angliæ*, or which was then all one, the *Communitas Baronum*, the lesser Barons or Tenents *in Capite*; and this sense of the words is

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(9.) Pat. 37.
Hen. 3. m. 13.

further confirmed by the famous (9.) Exemplification or Declaration of the Sentence of Excommunication pronounced against the Infringers of *Magna Charta*, where towards the latter end are these words; *Dominus Rex & prædicti Magnates omnes (R. Comes Norff. & Mareſcallus Angliæ, H. Comes Hereford & Essex. J. Comes de Warwick, Petrus de Sabaudia there named; ceterique Magnates Angliæ) & communitas populi protestantur publice in presentia venerabilium patrum B. Dei Gratia Cantuarien. Archiepiscopi totius Angl. Primat. nec non & Episcoporum omnium in eodem colloquio existentium*. In this Record (1.) the *Communitas Populi*, as distinguished from the *Magnates*, the great Barons there named, and the rest of the great Barons of *England*, were the Community of the Laity, or Community of the less Barons, or Tenents *in Capite*, as hath been formerly proved and asserted against Mr. *Petyt*.

D

(2.) Antinorm.
p. 102.

After this mighty Instance, (2.) he says, Laws were here settled, not *Ex plenitudine Regiæ potestatis*, nor by the *Norman* Barons cooperating with that power, but by the joint Advice and unanimous Consent of the grand Council of the Lords and Wise Men of the Kingdom of *England*. (3.) To prove which, he produceth the Testimony of many ancient Writers, whom no Man, he says, of Historical Understanding, can modestly impeach of Partiality, Faction, or Interest in the Case in Question.

E

(3.) Ibidem.

(4.) Ibidem.

The first (4.) Testimony is out of the Chronicle of *Litchfield*, which he cites out of *Lambard*, f. 158. the words in that Book are these, *Anno Gulielmus Regni sui quarto, apud Londonias Consilio Baronum suorum, fecit summoniri per universos Angliæ Comitatus, omnes Nobiles, sapientes, & suâ Lege eruditos, ut eorum leges & Consuetudines audiret, & licet idem Rex Willielmus leges Northfolkiæ & Suffolkiæ, Grant-*
brigie

F

brigie & Deira (ubi quondam maxima pars Danorum & Norvegensium inhabitabant) prius magis approbaverat, & eas per totum Regnum observari preceperat, pro eo quod omnes antecessores ejus & fere omnes Barones Normanniae, Norvegenses extitissent, & quod de Norvegia olim venissent. Sed postea ad preces Communitatis Anglorum Rep adquebunt, qui deprecati sunt quatenus permetteret, sibi leges proprias & consuetudines antiquas habere in quibus vixerant patres eorum, & ipsi in eis nati, & nutriti sunt, scilicet leges Sancti Regis Edwardi, & ex illo Die magna autoritate venerata, & per universum Regnum corroborata, & conservata sunt, præ ceteris Regni legibus leges Regis Edwardi.

From this History he asserts, First, That this was a Parliament; Secondly, That the Barones sui were English not Normans, and that in this great Council were all the English Nobles & Sapientes, Nobility and Wifemen, and that the Commons were here also, because King William granted these Laws ad preces (5.) Communitatis Anglorum. Concerning the improbability and partiality of this History I shall speak in another place, more than is said before in handling his second Question. But whether this Story be true or not, it shall be granted to be so; but then our Author must remember what he said before, That the stress of the Question was, whether when William had settled himself as well as he could upon the English Throne, he admitted any English into his great Councils to Advise and Consult about the difficult and urgent Business of the Kingdom, and then he may Answer this Testimony himself, especially if it be considered, that it cannot be made appear, that King William kept all the Promises he made at all times.

This Grant was made, and the great Councils holden in the Fourth year of his Reign, but then he had not settled himself so well as he could, then he had not made an intire Conquest of the Nation; that was not done until after the great appearance of the Natural English in Arms, and the great meeting which Frederic Abbat of St. Albans with others headed at Berkhamstead, which was not until above two years at least, if not five afterwards. For this Abbat after the breaking up of that meeting, and William's severe usage of the English immediately upon it, (6.) went into the Isle of Ely, (as was said before) and there soon after died. But in the Sixth (7.) year of King William, Anno Dom. 1072. he was (8.) at Court at Windsor in the Feast of Pentecost, and there Signed the Agreement between Lanfranc Arch-Bishop of Canterbury, and Thomas Arch-Bishop of York about the Primacy; Nay, he was in the London Council holden in the Ninth of King William, Anno Dom. 1075. subscribed it, Spelm. Councils 2. vol. f. 9. After the King (9.) heard of Frederic's death in the Isle of Ely, he took the Abby of St. Albans into his own hands, and so kept it, until Arch-Bishop Lanfranc prevailed with him to make his Kinsman Paul, a Norman Monk, Abbat thereof, which was in the year of our Lord 1077. on the Twenty eighth of June, in the Eleventh year of the Conqueror, of whom Mat. Paris (1.) says, Hic primus Abbas hujus Ecclesia fuit, postquam Anglia Normannis fuit penitus subjugata. This was the first Abbat of this Church after England was entirely subdued by the Normans; so that this Testimony he brings from Litchfield Chronicle was before

(5.) Ibidem.
p. 103. p. 111.
Fus Angl. p.
148.

(6.) Mat. Paris,
vis. Abb. f. 49.
lin. 3. and n.
10.
(7.) Malmsh.
f. 65. b. n. 30.
(8.) Ibid. f. 66.
a. n. 10, 20.

(9.) Mat. Par.
in vis. Abb. f.
49. n. 20, 30.

(1.) Ibidem.

he had settled himself as well as he could or intended, and therefore proves nothing, nor is it any ways to his purpose.

(2.) *Antinorm.*
107, 108.

His second Testimony is (2.) out of *Gervase of Canterbury*, Col. 1653. *lin. 5.* the words these, about the Election of Arch-Bishop *Lanfranc*; *Eligentibus eum senioribus ejusdem Ecclesiæ, cum Episcopis ac Principibus, Clero & Populo Angliæ in Curia Regis in Assumptione Sanctæ Mariæ.* The *Episcopi & Principes*, Bishops and Princes, the *Clerus & Populus*, the Clergy and People, or Laity, were in this place the same Persons, and only expressive one of another; and here is no mention either of *French* or *English*, so that this can be brought only to prove that there were great Councils or Parliaments in the time of the Conqueror, which no body denies; and if this were really a great Council, he gains nothing by it, for the meeting was about the Fourth of the Conqueror, some years before he had made an absolute Conquest, and upon that fixed himself in the Throne.

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B

(3.) *Ibidem*,
p. 108.

(4.) *Tylors*
Gavelk p. 194.

What he hath out of the short Account of King *William*, at the end of *Tylors* (3.) *Gavelkind*, concerning the promotion of *Lanfranc*, is of the same signification, though the words vary, and the Expressions are not the same; nor doth it prove more than the other, that any *English* were in this Council. The words are, (4.) *Rex mittens propter illum (that is Lanfranc) in Normanniam fecit eum venire in Angliam, eique consensu & auxilio omnium Baronum suorum, omniumque Episcoporum & Abbatum, totiusque populi Angliæ commisit ei Dorobernensem Ecclesiam.* From this confused Report of *Lanfranc's* being made Arch-Bishop, there can nothing be collected, but that his Barons, that is his Temporal Barons, and the Bishops and Abbats, applauded and liked the Kings choice, as did also the other Laicks; for 'tis not to be supposed, that all the People in *England*, which our Author would have comprehended under the words, *Totius Populi*, or the hundredth part of them ever knew of, or understood *Lanfranc's* being made Arch-Bishop; and a Man would wonder, if free choice, then signified as it doth now, how the *Saxon-English* Barons, Bishops, or the whole People, should choose a Stranger, a Person they had not known, a Monk first, then Prior of the Monastery of *Bee* in *Normandy*, afterwards by the Conqueror made an Abbat of the Monastery he had founded in *Caen*, and *Postpone* all their own deserving Countrymen, it will be somewhat difficult to conceive.

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(5.) *Antinorm.*
p. 108.

The third Testimony is from a (5.) General Council or Parliament (as he calls it) held at *Westminster* in the Fourteenth year of King *William*, in the Charter of Liberties he granted to that Monastery; in his Margin he cites a Cartulary out of *Cottons Library*, and *Dugdales Origines Jurisdiciales*, which cites that Manuscript.

(6.) *Council*,
Tom. 2 fol. 14.

But Sir *Henry* (6.) *Spelman* hath it more fully in the year 1077. and the Eleventh of the Conqueror, whose words I will recite, which are somewhat more than our Author mentions, and for what he transcribes are the very same.

F

In Chartâ Willielmi primi A. 1077. Monasterio Westmonasteriensis post Nomina Testium, Scilicet, Archiepiscoporum, Episcoporum, Comitum, & aliorum Seniorum, hæc pro autoritate Regis ad causas Ecclesi-

Ecclesiasticas tractandas inseritur. Ego Robertus de Oleyo confirmavi, Ego Hamo Dapifer signavi; multis praterea illustrium virorum personis, & regni principibus diversi ordinis omittis; qui similiter sua confirmationi, piissimo affectu testes & fautores fuerunt. Hi etiam illo tempore à Regia potestate à diversis p[ro]vinciis, & urbibus, ad universalem synodum, pro causis cujuslibet Sanctæ Ecclesiæ audiendis, & tractandis ad præscriptum celeberrimum cænobium quod Westmonasteriense dicitur Convocati.

A Upon part of this Fragment out of the Cartulary of the Abby of Westminster, he makes this (7.) Gloss. That not only the great Clergy and the Temporal Nobility, but the *Principes diversi ordinis à Regia potestate Diversis p[ro]vinciis & urbibus ad universalem Synodum convocati, &c. viz.* The chief and principal Men of several Ranks and Degrees in Condition, were summoned by virtue of the Kings Writ, out of their several respective Counties, Cities, and (8.) Burroughs, to this General Synod or Parliament.

(7.) Antinorm.
p. 111.

(8.) Ibidem.
p. 112.

B But First, Notwithstanding his Descant, the *Principes diversi ordinis* in this place, were only Bishops, Abbats, the great and dignified Clergy, and the Temporal Nobility, Earls, and Barons, the *Proceres* and *Magnates*, or in general, the Clergy and Laity that usually came to such Assemblies. To this purpose (9.) Florence of Worcester, *Rex fuit apud Westmonasterium, & cum eo omnes Principes Regni Ecclesiastici, & secularis ordinis.* The King was at Westminster, and all the Princes and chief Men of the Ecclesiastick and Secular Order. Eadmer (1.) of this very great

(9.) Fol. 651.
lin. 22. 3 Hen. 1

C Council, says, *Primates Regni utriusque ordinis huic conventui affuerunt.* To the same purpose 'tis said of another great Council, (2.) *Conveniunt ad Regalem Curiam apud Wentanam Civitatem in Paschali sollemnitate, Episcopi, Abbates, ceteri ex sacro & Laicali ordine.* There met at Winchester in the Kings Court, in the Solemnity of Easter, the Bishops, Abbats, and the rest of the Sacred and Lay Order. And Malmesbury giving an account of the Determination of the Controversie between the two Archbishops at Windsor, says thus, (3.) *Ubi & finem accepit in presentia Regis & Episcoporum, & Abbatum Diversorum ordinum; qui congregati erant apud Curiam Regiam.* Hence it is clear what the *Principes diversi ordinis*, or *utriusque ordinis* were; to wit, the chief of the Clergy and Laity, *Magnates & Proceres*, the Bishops, Abbats, Earls, Barons, and Temporal Nobility.

(1.) F. 67. n.
20. A.D. 1102.
3 Hen. 1.

(2.) Lib. Ms.
in Bib. Cot. sub.
Effig. Cleopat.
E. 1. A. D.
1072.

(3.) F. 66. a.
n. 10.

Nor, Secondly, Is our Author less ignorant and mistaken in the meaning of Cities and Provinces in this place, and the Persons that came from them. In the Ninth of the Conqueror, Anno Dom. 1075. there was a great Council held at London by Archbishop Lanfranc, (4.) in which according to the Decrees of Pope Damasus and Leo, and of the Councils of Sardis, and Laodicea, That Bishops Seats should be removed from Villages to Cities, by Royal Munificence, and Synodal Authority it was granted, That Herman Bishop of Sherborn in Dorsetshire, should remove to Salisbury, Stigand Bishop of Selesy in Suffex to Chichester, and Peter Bishop of Lichfield to West-Chester; and then it immediately follows, *De quibusdam qui in villis & vicis adhuc degebant, Dilatum est usque ad Regis audientiam, qui in transmarinis partibus tunc temporis bella gerebat.* Concerning some others which yet lived in Villages, the matter was put off to the Kings hearing of it, who was then busie in War beyond Sea. Now Sir Henry Spelman placeth this Council in the Eleventh of King William, which our Author cites as in the 14th of his Reign, two years, or if our Author be in the right, it was five years after that at London, wherein Provision was made for translating Bishops

(4.) Spelm.
Count. vol. 2.
f. 7.

shops Seats from Villages to Cities, which provision in all things, and as to all Persons was not then settled, for the reason above given; and therefore was this universal Synod called, for hearing and handling the Causes of every Holy, or as 'tis in our Author, Christian Church. This every Holy Church was in *England* (for an *English* Synod had nothing to do with Churches beyond Sea) and under those words were contained many Churches, which in reason and probability could not be meant of the small Parish Churches all the Nation over, and therefore must be understood of Cathedrals, or Churches where Bishops Seats then were, or where they had been or were to be removed.

From whence we may very rationally conclude, and affirm, That this Synod was called for the perfecting and Establishing such things as were left undone in the Synod of *London*, That the Persons summoned by the King to this Synod from Provinces and Cities, or from Counties, *Dioceses*, or Cities, were such as were concerned, or were able to advise and inform the King in this matter, and of the conveniency of the Places whither the Removals were to be made, as Deans, Arch-Deacons, and other Dignified Persons and Church-Officers, as well of the Laity as Clergy, but more particularly such whose Interest was to be secured in this Transplantation. And also the *Principes Regni*, the great Nobility, who were in those times always present in such Synods and Assemblies; and that Province and *Diocese* were sometimes the same thing, take this pregnant proof, Henry the Second, in the Fifteenth of his Reign, *Anno Domini* 1169. set forth certain (5.) Articles in contradiction to the Popes pretended Authority; and for reducing the Clergy to the Obedience of his Laws, amongst which the third (6.) Article was to the purpose following, *Omnes Clerici qui habent Redditus in Anglia, & sunt extra Angliam, summoneantur per omnes Comitatus, & Provincias, Quod in festum Sancti Hillarii redeant in Angliam, & si non venerint ad terminum illum, omnes Reditus eorum Capiantur in manus Domini Regis & ipsi sint sine spe reverendi; & Vicecomites faciant hoc sciri, Archiepiscopi, & Episcopi de Provinciis suis*: Let all Clerks that have Rents in *England*, and are out of *England*, be summoned in the several Counties and Provinces, That they return into *England* by the Feast of St. *Hilary*, and if they do not, let their Rents be taken into the Kings hands, and suffer them not to return; and the Sheriffs shall give notice of this to the Archbishops, and Bishops, of their respective Provinces. *Dioceses* in this place, as well as Counties, were meant and understood by *Provinces*.

(5.) Chron.
Gervaf. Col.
1408. n. 50, 60.
(6.) Ibidem.
Col. 1409.
n. 10.

A. D. 1138.

But by what follows it's more than clear; *Decima tertia die Decembris celebrata est Synodus apud Westmonasterium, cui præsuit Albericus Hostiensis Episcopus Domini Papæ Legatus, cum Episcopis Diversarum Provinciarum numero xvii Abbatibus fere xxx. &c.* Ric. Hagulstadenfis col. 327. lin. 1. Chron. Gervaf. col. 1347. n. 10, 20. Contin. of Flor. of Worcester, f. 671. lin. 12. on the 13th of December, there was a Synod holden at *Westminster*, in which Alberic Bishop of *Ostia*, and the Pope's Legate presided, with the Bishops of divers Provinces, in number Seventeen, and almost Thirty Abbats. There can be no Cavil raised here, against the use of the word *Provinces* for *Dioceses* or *Diocesses*.

(7.) Antinorm.
p. 111.

Immediately before this Gloss upon this Fragment of the Charter aforesaid, he had (7.) asserted there was an Essential part of the great Councils or Parliaments, in the time of William the First, which was the *Comunitas Anglorum*, the Community of *English-men*, which words he had out of the Fragment of *Litchfield's* Chronicle before cited, in his first Testimony; where 'tis said, That King William granted to the *English* their ancient Laws and Customs, ad preces *Comunitatis Anglorum*, upon the Petition and earnest Request of the Community of *English*: and what these were, he might have been easily informed himself, if he had looked in the Laws ascribed

ascribed to *Edward* the Confessor, where 'tis said, in the very same case, and upon the very same occasion, That, *Habito Consilio, pre-*
carui Baronum tandem acquievit, at length King *William* taking
Advice, or calling a Council, yielded to the Petition of his Barons;
Or into *Hoveden*, where upon the very same matter and occasion,
he hath the very same words with those in the Confessors Laws; so
that from hence it is manifest, That *Communitas Anglorum*, and
A *Communitas Baronum* were then, and in these places, words of
the same signification, and the Persons intended by them, the same;
that is, the Community of Barons, and not of the ordinary
People.

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A N
A N S W E R
T O T H E
A P P E N D I X .

I Have thus dispatcht and fully Answered all what hath been brought in this Book, and some other Writings of other Men, to make good their Fancy, That *William* the First was no Conqueror, and shewn the idleness and vanity of it ; from whence, passing by Mr. *Whitlock's* impertinent Speech upon the same Subject, brought by the Author as a (1.) Corroborating Testimony to explain and inforce what he hath said, as containing nothing material, besides the common Heads and Topicks others have used before him, I shall proceed to examine the *Appendix*.

(1.) *Pag.* 113.

(2.) *Pag.* 157.

This was made after the coming of the Normans, Feofamentum being a Norman word.

Wherein he brings a piece of a (2.) Record out of the Roll of Inquisitions of Demeasns in *Dorsetshire*, in the Fourth year of *Henry* the Third, the words these ; *Abbas de Middleton tenet in Capite de Domino Rege Manerium de Middleton, &c. ex Feoffamento Regis Æthelstani, & nullum servitium fecit nisi orationes.* The Abbat of *Middleton* holds of the King in *Capite*, the Maner of *Middleton*, &c. of the Feofment or Gift of King *Æthelstan*, and it hath performed no Service but Prayers. I did not examine this Record, nor shall I take further notice of it, until he shews it makes any way to his purpose, or doth in the least measure prove *William* no Conqueror.

(3.) *Ibidem.*

Next (3.) he cites a Charter by *Inspeximus*, to the Dean and Chapter of *St. Martins Le Grand* in *London*, by which King *William* confirmed the Possession of all Lands to that Church which it held in *Edward* the Confessors time ; but this can no way serve him, for First, Church Lands were either not taken away, or if they were, *William* the Conqueror caused them to be restored to their several Churches, by Advice, and at the Request of *Lanfranc* Archbishop of *Canterbury*, as hath been shewn before ; And Secondly, The Charter of King *William* is Witnessed by the Earls *Edwin*, *Morcar*, and *Waltheof*, and bears date in the day of *Pentecost* 1068. in the (4.) Second year of his Reign, before he had totally vanquished the *English*, and Established himself in his new Acquests.

(4.) *Ibidem*,
p. 158.

(5.) *Ibidem*,
p. 161.

His last and terrible Argument in this *Appendix* is a *Dilemma* grounded upon a (5.) Law made in the Fifteenth of *Richard* the Second, and drawn from dreadful Consequences to ensue, supposing King *William* obtained this Nation by Conquest ; His words are ; If this fond Notion of *Williams* absolute Conquest be true, then

then either the Arch Bishops, Bishops, Abbats, Priors, Earls, Barons, and Commons in Parliament 15 Rich. 2. knew it, or they did not. That they were ignorant of it, is not easily to be presumed, because they lived within ten of three hundred years ago, and no doubt but there were learned Men among them, that knew the ancient Customs of the Nation: and if they did, then were they guilty of the greatest madness and folly that ever was, when the Commons
A prayed that King, *En plein Parlement que nostre Seigneur le Roy soit & estoise aussi franke en sa Regalie, liberte, & dignite Royale en son temps come ascuns de cest noble progenitors Roys d'Engl. furent en loir temps, nient contrestant ascun estatut ou ordinance fait devant cest heures a contraire & mesment * en derogation de la liberte & franchise de la corone, quil soit adulle & de nul force; & puis tous le Prelats & Seigneurs Temporels prierent in mesme le maniere; & sur ce nostre Seigneur le dit Roy mercia les dits Seigneurs & communes de la grant Tendresse & affection quils avoient a la Salvation de son Honeur & de son Estate & a cause que leur dit prieres & requests lui semblerent honestes & resonables ils Sagree & assenta pleinment a ycelles.*
B

* The most material Clause that makes out the intention of this Law, is here left out.

Now if (6.) any Man of but an ordinary understanding think that the Parliament intended by this Act to out themselves of all their ancient and legal Rights, and totally to give up their Estates and Fortunes to the Kings absolute disposition; Is it possible almost to be supposed, that they designed to confound and overthrow the whole Polity and Government of the Kingdom, and reduce all to the Arbitrary Will and Power of a new Conqueror, without a Conquest? What Man is there (that is not become servile to common opinion, and implicit suppositions) of so inventive a faculty, as to conjecture such grand absurdities? And yet these and many more are the direct Consequences of those that endeavour to maintain and justify these pernicious Principles.
C

(6.) Append. P. 161.

For (7.) the Petition and Law is, That Richard the Second should be as free in his Regality, Liberty and Dignity Royal, as any of his noble Progenitors Kings of England; Then it naturally follows, that he was to be as free and absolute as William the Conqueror; and then what is the Conclusion and Result; but that the English were neither to have Estates nor Fortunes left them; and therefore it could be no great matter to them by what Law, Right, or Property Men held their Estates? And so farewell to Parliaments.
D
E

(7.) Ibidem, P. 162.

To this Argument from horrible Consequences, I Answer, First, in general, That where cogent Arguments are wanting, they are commonly supplied by words and pretences of very strange and dismal Consequences, if the Opinions of such as urge them be impugned, and shewn to have no foundation. But to suppose or urge an ill and strange Consequence may ensue upon matter of Fact done many hundred years since, and thence to conclude it was not done, or not so, is a strange and frivolous way of arguing and disproving it.
F

Secondly, I Answer, That our little Author according to his usual practise, in this and some other of his Writings, hath in quoting of this Law, omitted the most material Clause that would have discovered the design and meaning of it. The whole Law is thus.

O o

En

(8.) Rot. Parl.
15 Ric. 2. n. 13.

What is contained between these two marks [] is omitted in his Transcript of this Law.

The Reason of making that Law.

A brief Account of some practices against King Ed. 2.

(9.) Rot. Parl.
5 Ed. 2.

(1.) Memoranda Parliamenti apud Lincoln.
9 Ed. 2.

En ycest (8.) Parlement le second Jour de Decembre les comunes prièrent overtement en plein Parlement que nostre Seigneur le Roy soit & estoise aussi franc en la Regalie liberee & Dignité Royal en son temps come aucuns de les nobles Progenitours jadis Roys Dengleterre, furent en leur temps, nient contrestant aucun Estat ou ordonnance fait devant ces heures a contraire, & mesment, [en temps le Roy Edward second qui gist a Gloucester, & que si aucun Estatut feust fait en temps le dit Roy Edward] En Derogation de la Libertee & Franchise de la corone quil soit annulle & de null force. And so to the end of this Law as before.

In English thus. In this Parliament the second day of December, the Commons pray openly in full Parliament, That our Lord the King may be, and continue as free in his Regality, Liberty, and Dignity Royal in his time, as any of his noble Progenitors heretofore Kings of England were in their time, notwithstanding any Statute or Ordinance made before to the contrary, and especially in the time of King Edward the Second, who was buried at Gloucester; and if any Statute was made in the time of the said King Edward in derogation of the Liberty and Franchise of the Crown, that it be void and of no force. And afterwards all the Prelats and Lords Temporal prayed in the same manner; and thereupon our said Lord the King thanked the said Lords and Commons, for the great tenderness and affection they had for the safety of his Honour and his Estate, and because their Requests and Prayers seemed to him Honest and Reasonable, he fully agreed and assented to them.

This Law was made for the preservation of the Dignity and Rights of the Crown, and for preventing incroachments and invasions upon them; and was especially founded upon some disloyal Practices and unjust Usurpations, which had been made upon the Liberty and Freedom of the Crown in the time of Edward the Second, (which our Author hath concealed) and to secure the Crown from the like for the future was the chief intendment of it.

Edward the Second having used too great indulgence towards Pieres Gaveston, and other Favourites, as many Bishops and Barons then thought, who under pretence of the Honour of God, and Holy Church, the Honour of the King and Realm, made Confederations to remove Evil Counsellors, Reform the Court, and to force the King to let them name all Judges, the Chancellor, Treasurer, and other great Officers in Court, Gascoign, Ireland, and Scotland. See (9.) Preamble to the Ordinances made by an extorted Commission to certain Ordainers, viz. seven Bishops, eight Earls, and six Barons, dated March 16. 30 Ed. 2. but not executed until the Fifth of his Reign. Thomas Duke of Lancaster Cousin German to the King, one of these Commissioners and Ordainers, was always the Head of these Confederacies, (1.) who pretended great affection to the King, to the common profit of the Realm, and great care to see the Ordinances (in Number 41) maintained in all points, and many things amended in the Kings Household, Court, and Realm.

These Ordinances were revoked, and the Confederations, and Tumultuous Barons, and their Actions condemned, as contrary to the

A the Seigniory Royal, and State of the Crown, &c. in a Parliament (2.) holden at *Tork*, 15 *Eam.* 2. and notwithstanding this very year, the Earl of *Lancaster* was taken in open (3.) Rebellion, Tried by his Peers, and adjudged to be Hanged, Drawn, and Quartered, as also some others of his Confederacy; The Queen by her lewd practices with *Roger Mortimer*, and the Bishop of *Hereford*, by the assistance of many popular Bishops and Barons, first deposed, and then caused him to be Murthered.

(2.) Great Sar. Roll from *Hen.* 3. to 21 *Ed.* 3. *M.* 31.
(3.) *Walsing.* f. 116. n. 20, 30, 40.

B Somewhat like these, and upon the same pretences and foundation, were the practices in the time of *Richard* the Second, in the Tenth of his Reign, (4.) or somewhat before; he was urged by the **Barons** and petitioned by the **Commons**, to appoint by Commission continual Counsellors to assist him in the good Government of the Realm, the good and due execution of the Laws, and in relief of his own Estate and the Estate of his People.

(4.) *Rot. Parl.* 10 *Rich.* 2. n. 18. n. 20. Continual Counsellors appointed to King *Rich.* 2. by Commission.

C Some of the Heads of this Commission are to be found in the (5.) Parliament Roll of the next year, by which it appears, that twelve loyal and sage Lords were to be the Kings Council for one whole year, and to have full and sufficient power to make Ordinances for the Government of the King and the Realm, and whatsoever appertained to the King on this side, as well as beyond the Sea, and to repeal, repair, and redress whatsoever was ill done contrary to the State, Honour, and Profit of the King, or of the Realm, and to do divers other things necessary for the profit of the King and Realm; and no Person to give the King Counsel, or move him any manner of ways contrary to the said Ordinance, and Statute, or Commission. If he did, the first time he was to lose all his Goods and Chattels, and the second, Life and Member.

(5.) *Rot. Parl.* 11 *Rich.* 2. Part 2. Article 17.

The Heads of that Commission.

D Before the (6.) end of this Parliament in the Tenth year of his Reign, in which this Ordinance or Commission was made, the King made protestation with his own Mouth, That for any thing done in the said Parliament, he would not that prejudice should come to himself, nor to his Crown, nor to his Prerogative, and that the Liberties of his Crown should be safe, and kept.

(6.) *Rot. Parl.* 10 *Rich.* 2. n. 32.

E In the Eleventh year the King kept his Christmases in the Tower of *London*, the Lords (7.) appear in the Fields, Suburbs, and before the Tower with 40000 Men in Arms; they urge the King to come, and Treat with them at *Westminster*, where after a little Discourse, the Lords told the King, that for his Honour and profit of the Kingdom, Traitors, Whisperers, Flatterers, Evil Doers, Detractors, and Unprofitable Persons ought to be banished from his Court and Company, and others substituted in their places, who knew how to do it, and would more honourably and faithfully serve him; which the King having with much sorrow granted, they drave away and expelled from the Court (8.) fourteen Bishops, Lords, and Knights, and three Ladies as unprofitable Persons; and caused to be Imprisoned and Arrested eight Knights, and four Clerks, whereof the Dean of the Kings Chappel was one.

(7.) *Walsingham*, f. 332. n. 50. and 333. lin. 2. n. 30, 40, 50.

The Lords Rebell.

(8.) *Ibidem*, n. 50. and f. 334. n. 10.

(9.) *Ibidem.*
(1.) *Rot. Parl.*
11 *Rich. 2.*
n. 8.

The Lords
Appellants.

Their Pre-
tences.

In the Morrow after the Purification, there was a Parliament holden at *Westminster*, to which the (9.) Lords came with their Army, and in which (1.) five Lords Appellants, the Duke of *Gloucester* the Kings Uncle, and Constable of *England*, *Henry* Earl of *Derby* eldest Son to *John* Duke of *Lancaster* then in *Spain*, and afterwards King *Henry* the Fourth, *Richard* Earl of *Arundel*, *Thomas* Earl of *Warwick*, and *Thomas* Earl *Marshall*, made open protestation, That what they did touching their Appeal and Suit in that Parliament, and all the Men and People being in their Company, (or of their Retinue or Assembly) and with them in all that Affair, was done principally to the Honour of God, and in Aid and Salvation of the Estate of the Lord the King, and of all his Realm, and for the safety of their Lives.

A

(2.) *Walsingh.*
f. 331. n. 20.

(3.) *Rot. Parl.*
11 *Rich. 2.*
Part. 2. Ar-
ticle 25.

Several Per-
sons accused
as Traytors
by the Lords
Appellants in
Parliament.

(4.) *Ibidem.*
(5.) Which
was holden
Octob. 1.
10 *Ric. 2.*
The Articles
exhibited a-
gainst them.

This (2.) Parliament was called on purpose for the Trials of several Persons accused by the Lords, as Traytors and Enemies to the King and Realm, amongst whom were (3.) *Robert Tresilian*, *Robert Belknap*, *John Cary*, *John Holt*, *R. Fulthorp*, and *William Burgh*, the Kings Justices, and *John de Loketon* Serjant at Law, impeached for Answering several Questions and Demands made unto them by the King, amongst which these were the chief relating to this present matter ;

B

First, It was (4.) demanded, Whether the new Statute, Ordinance, and Commission made in the (5.) last Parliament at *Westminster*, did derogate from the Kings Royalty and Prerogative? They unanimously answer, it did, especially for that they were contrary to the Kings Will.

C

Secondly, It was (6.) demanded, How they were to be punished, who procured those things afore said to be done? They unanimously answer, with death, unless the King would shew them favour.

D

(7.) *Ibidem.*

Thirdly, Also (7.) it was demanded, How they were to be punished, that excited the King to assent to that Statute, Ordinance, and Commission? They unanimously answer, as to the last Question.

(8.) *Ibidem.*

Fourthly, They were (8.) demanded, How they were to be punished, that streightened the King, or forced him to consent to the making of them? They unanimously answer, as Traytors. Also, How they were to be punished, that hindred the King from exercising those things which belonged to his Regality, and Prerogative? They unanimously answer, as Traytors.

E

(9.) *Ibidem.*

Fifthly, Also it was (9.) demanded, How he was to be punished, who moved in the Parliament, that the Statute might be sent for, by which *Edward* the Son of *Edward*, Great Grandfather to the then King, was adjudged in Parliament; by the Inspection of which Statute, (1.) the new Statute, Ordinance, and Commission afore said, were conceived and framed in Parliament? They answer unanimously, that as well he that so moved, as the other, that by pretext of the motion, brought that Statute to the Parliament, were worthily to be punished as Traytors.

F

(1.) *Ibidem.*

There

There are likewise two Articles in the Impeachment of *Alexander Arch-Bishop of York*, *Robert Vere Duke of Ireland*, *Michael de la Poole Earl of Suffolk*, *Robert Tresilian*, and *Nicholas Beemmer Knights*, which have relation to this present matter, and will serve to illustrate it.

A That having (2.) set the Kings heart and mind against the Lords, and others, that in the last Parliament assented to make the aforesaid Commission and Ordinance. They designed to cause to be arrested, and falsly to indite in *London* and *Middlesex* the Lords Appellants, and certain Commons for Conspiracy and Confederacy, in making and procuring to be made, and causing the King to consent against his Will, to the Statute and Commission contrary to his Regality, and in desherison of him, and derogation to his Crown.

(2.) *Ibidem*,
Art. 26.

B That having (3.) Traiterously informed the King that the Statute, Ordinance, and Commission were made in derogation of his Regality and Prerogative, they strongly possessed him, that all those which made the said Statute, Ordinance, and Commission had a purpose to degrade and depose him, and that they would not give over that purpose until they had perfected it, for which cause the King held them as Enemies and Traytors. There were other Articles against them, but not directly relating to this matter, they are reserved until I come to the Reign of *Richard the Second*, which is their proper place.

(3.) *Ibidem*,
Art. 27.

They not only
deposed, but
caused him to
be murdered af-
terwards.

C The Grounds, Reason, and necessity of this Law clearly appearing by this Parallel, and the Law it self; its beyond the imagination of all but Malicious Men, and such as would allow the Government no power to support it self, how those monstrous Inconveniencies and Consequences should result from it, with which our Writer hath endeavoured to bug-bear and affright unwary and unstable People, and gull them into a fearful Credulity of Impossibilities, by his Arts of Concealing, and partial Citation; If he had looked a little forward into the Laws made in this Parliament, the possibility of such dreadful Consequences and Inconveniencies arising from this Law, could never have entred into his thoughts: for the Commons in the same Parliament supplicated (4.) the King, *Que toutes les bones Estatuts, & Ordeinances avant ces heures faitz, nient Repellez soient fermement tenuz & gardez & dument Executz in toutz leur pointz*, That all the good Statutes made before that time, and not Repealed, might be firmly holden and kept, and duely executed in all their points. To which Petition he Answered in the usual words that made a Law, *Le Roi le Voet*, The King Wills it; who certainly knew when he said so, that his Prerogative how great soever it might be then, was consistent with those Laws, and the Commons likewise understood those Statutes were consistent with his Prerogative, the Rights and Liberty of the Crown, for the preservation whereof they but a little before had made such a generous Petition and Request to him.

(4.) *Rot. Parl.*
15 Rich. 2.
n. 2.

F Having taken in pieces, fully examined, directly (as I hope) answered, and shewn the easiness, vanity, and delusion of all the Arguments in this Book, and the Appendix to it, and of many others frequently

(6.) Append.
10.

Testimonies
to prove that
William was a
Conqueror.

Gal. Pictavi-
ensis
(7.) F. 206. A.

See more of
his Relation
in the Glossary
in the word
Eledus.

Ordericus Vi-
talis
(8.) F. 251. A.

(9.) Ibid. D.

(1.) Ibidem,
f. 666. A.

(2.) Ibidem,
f. 853. A.

frequently also found in other Authors, brought to prove the (5.) absurdity and falsity of King *Williams* absolute Conquest; Besides the unanswerable Arguments drawn from (6.) *Domesday-Book* to prove it, and others both here and in the Preface to the *Norman* Story mentioned, urged, and explained, over and above the three great Authorities of *Ingulp* Secretary to King *William*, *Eadmer* a Monk of *Canterbury* at that time, and *Gerbale* of *Tilbury*, who was an Officer in the Exchequer in the time of King *Henry* the Second, I will add Testimonies and Authorities of our best Historians, who were contemporary with, or lived not long after them, for the satisfaction of those who have been deluded by such, as in their Writings have followed their own Fancies, and never took care or pains truly to understand the sense and meaning of our ancient Writers.

I will begin with *Gulielmus Pictaviensis*, who speaking of King *Williams* Coronation, adds, (7.) *Cujus liberi atque nepotes justa successione, præsidebunt Anglica terra, quam & hereditaria Delegatione Sacramentis Anglorum firmata, & Jure Belli ipse possedit.* Whose Children, and Grandchildren, or Offspring shall govern *England* by a just Succession, which he possessed by an Hereditary Bequest or Delegation, confirmed by the Oaths of the *English*, and by the Rights of War.

The next shall be the Testimony of *Ordericus Vitalis*, who tells us how *William* circumvented the two great (8.) Earls of *Mercia*, and that after *Edwin* was slain, and *Morcar* imprisoned, then *William* began to shew himself, and gave to his Assistants the best and most noted Countries of *England*, and of the lowest *Norman* Clients, or very mean People, he made very rich Colonels and Captains. (9.) *Rex Gulielmus dejectis Merciorum maximis Consulibus, Edwinum scilicet interfecto, & Morcaro in vinculis confrecto, adjutoribus suis inclitas Anglia Regiones Distribuit: Et ex infimis Normanorum Clientibus, Tribunos & Centuriones ditissimos erexit:* and there proceeds to name many that had great Estates given them here in *England*, fol. 522, 523.

In a Conference or Contest between such Noblemen as had Estates both in *England* and *Normandy*, whether it was expedient to permit these Nations to be two distinct Governments after the death of *William*, we find this Passage noted by this Author; (1.) *Nos cum Gulielmo duce pontem transfretavimus, & Saxones Arglos, viribus armisque nostris, Prostravimus, & fundos eorum cum omnibus divitiis, non sine magno cruoris nostri discrimine obtinuimus.* We passed the Sea with Duke *William*, and with our Force and Arms overthrew the *Saxon-English*, and obtained their Lands and all their Riches not without great danger of our Blood or Lives.

The same Author Relates, That (2) *postquam Normanica virtus Angliam Edomuit, eamque Gulielmus Rex suis legibus Commode subegit, Fulcardum Sancti Bertini Sithiensis Monachum Torneia præposuit.* After the *Norman* Force overcame *England*, and King *William* aptly put it under, or governed it by his Laws, he made *Fulcard* a Monk of *St. Omars*, Abbat of *Thorney*.

After

- After Ordericus comes William of Malmshury, and affirms, That England was made an Habitation of Foreigners, and Governed by Strangers, (meaning the Normans and such as came with them) and that at the time he wrote, there was no Natural English-Man a Duke, i. e. a great or Leading Man, a Bishop or an Abbat, all sorts of Comelings or Outlandish-Men devoured the Riches and Bowels of England: nor was there any hopes that this Misery would have an end. (3.) *Anglia facta est exterorum habitatio, & alienigenarum Dominatio; Nullus hodie Anglus, vel Dux, vel Pontifex, vel Abbas. Adhuc quique divitias, & Viscera Corrodunt Angliæ, nec ulla spes finiendæ miseriæ.* And then proceeds with the Norman Story, where speaking of the Battle of Hasting, he says, That was the fatal day to the English, the lamentable destruction of his sweet Country, by its receiving new Lords and Masters. (4.) *Illa fuit dies fatalis Angliæ, funestum excidium Dulcis Patriæ, pro Noborum Dominoz Commutatione.* And further speaking of the same Battle, and the Vices and Debauchery of the English, says, That they rather rashly and with headlong fury, than Military skill, joyned Battle with William, whence it was, that by one Conflict, and that an easie one, they cast themselves and Country into Slavery. (5.) *Hinc factum est, ut magis temeritate & furore præcipiti, quam Scientia Militari, Willielmo Congressi, uno pælo, & ipso perfacili, servituti se, patriamque pessunderint.*
- To these we joyn Henry Arch-Deacon of Huntington, (6.) *Millesimo, sexagesimo sexto, Anno Gratia, perfecit Dominator Dominus, de Gente Anglorum quod diu Cogitaverat. Genti namque Normannorum aspera & Callida tradidit eos ad exterminandum.* In the year of Grace 1066. the Lord and Ruler of Nations perfected what he had long intended to the English, for he delivered or gave them over to the rough and subtle Nation of the Normans to be destroyed.
- And in another place, Anno vigesimo primo (8.) *Regni Willielmi Regis, cum jam Domini justam voluntatem super Anglorum gentem Normanni Compleissent: nec jam vix aliquis Princeps de Progenie Anglorum esset in Anglia, sed omnes ad servitutem, & ad Mercem redacti essent, ita ut Anglicum vocari esset opprobrio: Hujus author Vindictæ Gulielmus, vitam terminavit. In Anglia his temporibus, Thelonea injusta & pessima Consuetudines pullulaverunt.* In the Twenty first year of the Reign of King William, when the Normans had fulfilled the just Will of the Lord upon the English, nor was there then any great Person of the Stock of the English in England, but all were reduced to servitude and sorrow, so as it was opprobrious to be called an English-Man, William the Author of this Punishment or Judgment died. In these times unjust Tolls, and very evil Exactions sprang up. In the beginning of the Story of William Rufus, there may be seen this passage, (9.) *Declaratum Constat, quo modo Dominus salutem, & honorem genti Anglorum pro meritis abstulerit, & jam populum non esse jusserit.* It hath been declared, how the Lord according to their deserts took away the Weal and Honour of the English Nation, and at this present hath Commanded they should not be a People.

William of Malmshury.

(3.) Malmsh. f. 52. a. n. 40.

(4.) Ibidem, f. 57. a. n. 30.

(5.) Ibidem, f. 6. n. 10.

(6.) F. 210. b. n. 10.

Henry Arch-Deacon of Huntington.

(8.) Ibidem, f. 212. a. n. 30, 40.

(9.) Ibidem, f. 213. n. 40.

To these we add John Brompton, (1.) *Willielmus Terras Anglorum, Magnatibus ac Militibus, & aliis hominibus suis Francia*

(1.) Chron. Joh. Brompton, col. 963. n. 10.

(2.) *Idem.*
col. 981. n. 30.

& Normannia, Qui secum in Conquestu suo extiterant, donavit; King William gave to great Men and Knights, or Soldiers, and other his Men of France and Normandy, the Lands of the English; and then reckons up about 250 to whom he had given Estates. (2.) *Deus ad Exterminium Anglorum præordinaverat ferocem populum, Normanorum, quadam prærogativa servitii singularis præminentem, &c.* God for the destruction of the English, pre-ordained the fierce People of the Normans eminent for their singular Cruelty, &c. where the Reader may see what hardship the English endured under them.

A

(3.) Col. 1327.
lin. 3.

Gervase of
Canterbury.

Next we produce Gervase of Canterbury, (3.) *Regnante Rege Wilhelmo primo Qui armis Angliam adquisivit, Caput Ecclesia Dignitates suas dediscere, nam idem Willielmus Regno sublimatus, tam Ecclesiastica jura, quam secularia, sibi usurpavit, Sacerdotes, & Ecclesias oppressit, Episcopos deposuit, & alios supposuit; In the Reign of King William the First, who obtained England by Arms, the Church began to lose her Dignities, for the same King being exalted to the Kingdom, he used both Ecclesiastick, and Secular Rights or Laws as he pleased. Churches and Priests he oppressed, Bishops he deposed, and substituted and appointed others whom he would. In*

B

(4.) Col. 1652.
n. 60.

another place of the same Author, *Dux (4.) Willielmus postmodum cum armis Regnum Anglorum obtinisset, ex assensu Papæ Alexandri Lanfrancum vocavit in Angliam; Duke William after he had with Arms acquired the Kingdom of the English, by the assent of Pope Alexander called Lanfranc into England.*

C

(5.) Fol. 5.
n. 10.
Mat. Paris.

From these we proceed to Matthew Paris, whose words are these, (5.) *Dux Normannia W. Civitatibus Dispositis, & Castellis, propriisque ministris impositis, ad Normanniam cum obsidibus Anglia & Thesauris innumeris migravit. Quibus incarcerationis & sub salva Custodia Deputatis, ad Angliam denuo properavit, ut Comitibus Normannis, qui in Bello Hastingsi Patriam secum Subjugaverant, Terras Anglorum & Possessiones, ipsis Expulsis, manu distribueret affluentij, & Potestatem illud Quod eis remaneret, sub Iugo poneret perpetua servitutis, i. e. William Duke of Normandy having put the Cities and Castles into a posture of defence, and placed his own Soldiers in them, went thither with his English Hostages, and innumerable Treasure, who when he had Imprisoned, and put into safe Custody, he presently hastned into England, that he might with a plentiful hand distribute the Lands of the English, who were expelled from, or violently thrust out of them, to his Fellow Soldiers the Normans, which together with himself in the Battle of Hastings, had subdued the Country; and that little which was left, he put under the Yoke of perpetual Servitude.*

D

E

(6.) F. 7.
lin. 3.

In another place, (6.) *Rex Willielmus Episcopatus & Abbatias omnes quæ Baronias tenebant, & eatenus ab omni servitute seculari libertatem habuerant, sub servitute Statuit militari; innotulans singulos Episcopatus, & Abbatias pro voluntate sua, quot Milites sibi & Successoribus suis, hostilitatis tempore, voluit a singulis exhiberi. King William brought under Military Service, the Bishopricks, and all the Abbies which held Baronies, (that is, as much Land, upon which a Barony might be erected) and until that time had them free from all Secular Service or Servitude, Enrolling every Bishoprick and*

F

and Abby according to his pleasure, how many Knights or Horsemen they should find for him and his Successors in time of Hostility.

A And in a third place speaking of the Promotion of *Paul* Abbat of *St. Albans*, he says, *Paulus* (7.) *Natione Neuster, promotus in Abbatem Anno Gratia 1077. quarto Kalendarum Julii, tempore Regis Wilhelmi, Regis majoris, scilicet Conquestoris; Anno Regni ipsius undecimo. Hic primus Abbas hujus Ecclesie fuit, postquam Anglia Normaniis penitus fuit subjugata.* *Paul* by Nation a *Norman*, made in the year of Grace 1077. on the Twenty eighth of *June*, in the time of King *William*, the great King, that is to say, the Conqueror, in the Eleventh year of his Reign. This was the first Abbat of this Church after *England* was wholly subdued by the *Normans*.

(7.) In vita
Abbat. f. 49.
n. 30.

B *Matthew* of *Westminster* gives us the very same Account of the Actions and Behaviour of King *William* the Conqueror, and almost in the (8.) same words with the first Citation of *Mat. Paris*, wherefore I forbear to repeat them. He only adds, That (9.) *De Rege factus Tyrannus, cum se viderat in sublimi Elevatum, & in fastu Regni Confirmatum, in alium virum est subito Transmutatus, Nobiles Terra quos avitus sanguis ab antiquo Sublimaverat, pro dolor, conculcando.* Of a King being made a Tyrant, when he saw he was confirmed in the Kingdom, suddenly he was changed into another Man, trampling under foot the ancient Nobles of the Land, who had been exalted by the Blood of their Ancestors.

(8.) F. 125.
n. 40.
(9.) Ibidem.
Math of
Westminster.

D *Chronologia Rothomagensis*, Printed at the end of *Gabriel du Moulin's* History of the Conquests of the *Normans*, acquaints us with the same things. (1.) *Willielmus Dux Normannorum trajecta in Angliam Classe, Haraldum interfecit occupatorem Regni, & felicibus auspiciis Regnum Conquirat, Hic ibi nobis Creat Magistratus, & antiquam vivendi rationem immutat, Leges quas in hunc diem Angli observant, idiomate Normanico promulgavit, Regnumque quod longa rerum serie, adhuc durat, inchoat, William Duke of Normans, passing with a Fleet into England, killed Harold the Usurper of the Kingdom, and by fortunate success Conquered it. There he created new Magistrates, and changed the ancient way of Living; The Laws which at this day the English observe, he published in the Norman Language, and began that * Government which hath a long time continued.*

(1.) Anno Do-
mini 1066.
The Chrono-
logy of Rouen.

F The Register of the (2.) Honour of *Richmond* agrees with the preceeding Testimonies. *Willielmus Bastardus postquam Coronatus fuit in Regem Anglia per Conquestum; Auxilio Matildis Reginae suae, dedit Alano Fergant Comiti Britannia, Honorem & Comitatum Comitatus Edwini in Eborakshire, Qui modo vocatur Richmundshire, & qui ad tunc extitit Geldable, & postea Regum privilegio in Libertatem est mutatus.*

* Regnum in
this place
most properly
signifieth Go-
vernment, as
it frequently
doth in many
Authors.
(2.) In Bibl.
Cotton. sub
Effig. Faustini.
B. 7. f. 72.
Selden's Pre-
face to ten
Authors, f.
36, 37.
(3.) Ibidem.

Hic (3.) *Alanus primo incepit facere Castrum & munitionem, juxta Manerium suum Capitale de Gilling pro tuitione suorum contra infe-
stationem Anglozum tunc ubique Exhereditatozum, & similiter &
Danozum, & nominavit dictum Castrum Richmond, suo idiomate Gal-
lico quod sonat Latine Divitem Montem, i. e. William the Bastard*

after he was Crowned King of *England* by Conquest, at the request of *Maud* his Queen, gave to *Alan Fergant* Earl of *Britain* the Honour and Earldom of Earl *Edwin* in *Torkshire*, which is now called *Richmondshire*, and which was then *Geldable*, and afterwards by the privilege of Kings was changed into a Liberty.

This *Alan* first began to build a Castle and Fortress by his capital Maner of *Gilling*, for the defence of his People, against the annoyance of the *English* every where dishinherited, or dispossessed of their Estates, as also of the *Danes*, and named the said Castle *Richmont*, which in his *French* Language signifies Rich Hill or Mountain. A

Henry de
Knighton.

(4.) Col. 2354.
B. 40.

I will conclude these Authorities of the ancient Historians with the Testimony of *Henry de Knighton*, who speaking of the death of *William* the First, delivers himself in these words, (4.) *Mortuo Willielmo vixerat in Anglia, princeps Anglicus; imo Anglis in Servitutem redactis, probosum fuit vocari Anglicus; Deus enim ad Exterminium Anglorum, praordinaverat populum ferocem, Quorum natura est, cum hostes deprefferint, ipsi se deprimant, i. e.* When *William* died there was scarce in *England* any great or powerful *Englishman*; yea, the *English* being brought into Servitude, it was a Disgrace to be called an *Englishman*; for God had pre-ordained a fierce People for the destruction of the *English*, whose nature is such, that when they have destroyed their Enemies, they then destroy themselves. This is clear from the Murthers, Rapines, Burnings, and Hostilities committed anciently in *Normandy* by the *Normans*, in their Disputes one upon another, and by our Barons Wars. B C

(5.) Glossar.
Mr. Lambard.

As to Modern Authorities I will mention only two, the first is *Mr. Lambards*, in the Explication of the word (5.) *Hereot*. *Hereotum armamenta sive Belli instrumenta significat, & Constat sane primis temporibus, nomine apparatus Bellici, Domini Tributum Conjectura est igitur, Normannos Victores, Anglis victis, omnique spoliatis armatura Hereotum remisisse, atque a miseris pecuniam Exegisse, i. e.* The word *Hereot* signifies Arms, or Instruments of War, and 'tis evident that in old times it was given by Tenents to their Lords, as Warlike Furniture; Therefore it may be guessed that the Conquering *Normans* remitted the *Hereot* to the Conquered *English*, when they were totally disarmed, and exacted of those miserable People Money or Cattle in lieu of it. D E

(6.) Britan.
f. 109.
Mr. Camden.

The second is *Mr. Camdens*, who in this manner speaks his mind concerning this matter; (6.) *Victor Gulielmus, in Victorie quasi Trophaeum, antiquatis maximam partem Anglorum legibus, Normannia Consuetudines induxit, Causasque Gallice disputari Jussit; Exclusis hereditate abita Anglis, agros & praedia, Militibus suis assignabit, ita tamen ut Dominium directum sibi reservaret, obsequiumque Clientelari Jure, sibi & successoribus Devinceret, id est, ut omnes feudo & fide tenerent, & Nulli praeter Regem essent veri Domini, sed potius fiducarii Domini, & possessores.* *William* the Conqueror, as a Token of his Victory, laid aside the greatest part of the *English* Laws, and brought in the Customs of *Normandy*, and Commanded Pleadings to be in *French*. The *English* being thrust out of their Inheritance, F

tance, or the Possessions of their Ancestors, he assigned their Lands and Maners to his Soldiers; yet so as he reserved the direct Dominion or Propriety to himself, and secured their Service to him and his Successors by Homage: that is, that they should all hold their Estates according to the Feudal Law, and that none besides the King should be true Lords, but rather Fiduciary Lords (that is, Trustees as it were, and Lords but for a time) and Possessors.

A

What hath been said concerning this Controversie in the Preface to the *Norman* Story, and in this Answer, with these Authorities, were enough, a Man would think, to put to silence, and convince the most Pertinacious Gainsayer imaginable; but such is the monstrous Industry, the matchless Confidence of Men of this Temper and Party, that for driving on the old Design, and amusing the People and Rabble with such a strange Notion of Liberty; That they are to be under no Law or Government; That the Prince hath no Power, but what they give him; That they are all Law-Makers, and to meet in Parliament, *omnes de Regno*, all Men of the Kingdom; That they will proceed to Scribble for the good old Cause, (for that must be revived if their Notion of Liberty succeeds) though against their Knowledge, and perhaps Judgment, under pretence of Truth, serving the King and Government, asserting the Rights of the People, defending the Laws, &c.

B

C

I shall give a Specimen of our Authors Confidence in the following Parallel, First rehearsing his own words near the Close of his Discourse. (7.) If any Man can truly and impartially either shew, first, that I have misquoted the Authors and Books I cite: and that such Passages do not occur in the places quoted; or, secondly, if they do occur, that I have mistook their meaning, as to the purposes for which they are produced; I say, if any Man can, and will ingeniously shew me either of these, I shall be so far from not confessing my fault, or declaring how I was misled into it, that I shall have a hearty value for any such friendly Admonition, and receive it with all the grateful acknowledgment as becomes me. These are his very words, the parallel follows.

D

Argumentum Antinormanicum, Verstegan, Printed at London p. 8. 9. out of Verstegan, 1634. and dedicated to King James, King James, pag. 173. p. 173.

E

F

CONvening his Parliament, or Assembly of three Estates, which consisted of the Clergy, Nobility, and Commons; The Nobility in fine promised to serve him, and the Clergy and People to aid him with Money according to their several abilities; and such Offers as they made, were forthwith set down in Writing by a Secretary there present.

THE Duke so much prevailed in his Assemblies of the three Estates, which consisted of the Clergy, Nobility, and Commons, that in fine the Nobility promised to serve him, and the Clergy and People to aid him with Money according to their several abilities; and such Offers as they made, were forthwith set down in Writing by a Secretary there present. Odo Bishop

P p 2

This

(7.) Appendix to Argument. Antinorm. p. 164.

This amongst other things is brought to shew, with what Supplies Duke William prepared for England, and that his Quarrel was more Personal than National, and that he came only to Conquer Harold, p. 9.

of Bayeux accorded to furnish him with forty Ships, the Bishop of Mains with thirty, and others according to their benevolent Minds. Then began he to desire Aid of the Princes his Neighbours, as of the Earl of Anjou, Poitou, du Main, Ponthieu, Bon-

longue, and others, promising to give Land unto every of them in England, if he Conquered it. See further in this Answer, fol. 240. Speak Sir, Is this Passage fairly cited? 'Tis true, what you quote is there to be found: but reflect upon your partiality; Is the meaning of it according to the purpose for which you produced it? surely quite contrary, had it not been for your art of concealing.

Argument. Antinorm. p. 13. out of Malmsbury, but hath concealed the Author.

Malmsbury, f. 154. b. n. 10.

Quod æquo Jure Anglos & Francos Tractaret. This is produced to prove, that there was one extraordinarily necessary Article added to the Oath of King William, more than was in the Oath of the Saxon Kings; which Oath he intends, and supposeth all Men should believe, as well as he himself seems to do; That King William Religiously observed and kept it; Or he brings it to no purpose, to prove that he was no Conqueror.

Exhortatus Aldredus Consecrationem egit, exacto prius coram omni populo, jure jurando, Quod se modeste erga subjectos ageret, & æquo Jure Anglos, quo Francos, tractaret; itaque illum quamdiu erga suos temperiem habuerit, dilexit ut prolem, veneratus est ut Regem; sed cum importabilis Tributi pensum a provincialibus exigeret; Convenit eum per legatos Antistes, Quos ægrè admissos, cum turbulento Responso abegisset, non moratus ille, maledictionis telum, in illum, & omnem ejus vibrabat progeniem præfatus, posse se maledictionem dare merito, Qui Benedi-

ctionem dedisset immerito, Quod cum relatum esset Regi, amicorum admonitione delinitus, misit, qui Episcopum exoraret. Veruntamen prævenerat nuntios, mors antistitis, Qui ex ægritudine animi (ut plerunque fit) Contracto morbo decubuerat, & obierat. That is, Aldred (Arch-Bishop of York) being requested, performed the Consecration or Coronation of King William, having first exacted an Oath before all the People, That he would behave himself moderately toward his Subjects, and that he would treat the English with the same equal Right he did the French. Therefore so long as he carried himself with Temper towards those under his Jurisdiction, he Loved him as his Child, and Honoured him as his King; but when he exacted from them an importable Tax, he sent Messengers to him, which with difficulty he admitted, and sent them back with a rough answer; forthwith the Arch-Bishop Cursed him and all his Progeny; saying, he might worthily Curse, where he had unworthily Blessed. Which being told to the King, he was persuaded by his Friends to send and reconcile himself to him; but he died before the Messengers came to him, of Grief (as it often happens.)

Say,

Say, Sir, Have you cited the Author from whom you had this Passage? Is the meaning of this whole Story, whereof the words by you produced are a Scrap, according to the purpose for which you produced them? If you had dealt fairly and impartially in this Citation, would it not have destroyed your whole Argument against the Conquest, from the Coronation Oath? And was not this the reason you concealed the Author, and the Words, and Story, both preceding and following those you cited?

Argumentum Antinormanicum,
pag. 22.

Floren. Wigorn. f. 634, 635.

Sim. Dunelm. Col. 195. n

30. Hoved. f. 258. a lin.

1. &c. They all have the same words.

A *Nd' fædus pepigit*, he made a Solemn Covenant with the *English* to observe and keep those Laws, which were *bonæ & approbatæ & antiquæ Leges Regni*. He hath concealed his Author whence he had this Scrap *fædus pepigit*, for the words *bonæ & approbatæ & antiquæ Leges Regni* belong not to it. They are to be found in *Mat. Paris*, in the Life of *Frederic* Abbat of *St. Albans*, f. 48. n. 30, 40. without the words *fædus pepigit* preceding them.

B *Comes Gulielmus, Suthregiam Middle-Saxoniam, Hartfordensem provinciam, devastabat, & villas cremare, homines interficere non cessabat donec ad villam Beorcham veniret, ubi Adeldredus Archiepiscopus, Wulstanus Wigornia Episcopus, Clito Edgarus, Comites Edwinus & Morcarus, & de Londonia quique Nobiles, cum multis aliis ad eum venerunt, & datis obsequiis, illi deditionem fecerunt, fidelitatemque Juraverunt, cum quibus, & ipse fædus pepigit; & nihilo minus exercitus suo villas cremare, & Rapinas agere permisit. Appropinquante igitur, Dominice nativitate festivitate, cum omni Exercitu Londoniam, ut ibi in Regem Sublimaretur, adiit.* Earl William wasted Surry, Middlesex, and Hartfordsbire, burnt Towns, and killed Men, until he came to the Town of Beorcham; where Aldred the Arch-Bishop, Wulstan Bishop of Worcester, and Prince Edgar, the Earls Edwin and Morcar, and all the Nobility from London, with many others came unto him, and having given Hostages, submitted and Swore Fealty to him; with whom he made a Truce or Agreement. And nevertheless he permitted his Army to burn Towns, and commit Rapine; and *Christmas* approaching, he went to London with all his Army, that he there might be made King. I find not the words *fædus pepigit* in any other Story but this, where there is no Covenant to observe the good, approved, and ancient Laws of the Kingdom. Why did you conceal the Authors of these words? Was it not, because if this Story had been looked into, they could not possibly have been applied or construed according to the purposes for which you produced them? Is not here the Submission of the People, Fealty Sworn, Hostages given, Towns burnt, Rapine committed? Was he not made King by the Influence and Power of his Norman Army, which none could resist? Are not these Marks of a Conqueror?

Argumen-

Argumentum Antinorm. p. 24.
out of *Seldens* Notes upon
Eadmer, f. 173.

Hoveden, f. 342. b. n. 30,
40, 50, f. 343. a. n.
10.

CEs sont les leis & les Cu-
stumes que li Reis William
grantut á tut le peuple de Engle-
terre, apres le Conquest de la
terre, Ice les Meismes, que le Reis
Edward son Cousin tint devant luy.
These are the Laws and Customs
which William the King granted
to the whole People of England,
after the Conquest of England;
These are those which the King
Edward his Cousin held before
him. In these Laws recited by
Hoveden in the Life of King
Henry the Second, King Edwards
Laws are confirmed in these
words; This We Command,
That all Men have and hold the
Law of King Edward in all things,
together with those Laws which
we have added for the profit of
the English. Concerning these
French Laws, and those added
for the profit of the English, see
this Answer, f. 254. A. B. C. &c.
f. 257. E. F. &c.

twenty more; which one and twenty Sir Roger Twysden also sub-
joins to the same Croyland Copy; *Lambard. Archaionom.* f. 170.
out of the Red Book in the Exchequer, as being the best Exemplar
of them. Of these additional Laws nine only are to be found in
Hoveden, which he says were added for the profit of the English, and
those imperfect, as may appear by comparing of them, and the Te-
stimony of Mr. Selden, which he says, *apud Rogerum Hovedenum ex
mutilo nimium Exemplari obtrusa sint, aut librarorum injuriâ decurtata*,
Not. ad Eadm. lin. 38.

Argumentum Antinorm. p. 28.

King William finding there
was no remedy, though
he was long resolute, at last in a
Common Council of his King-
dom yields, and by his *Magna
Charta* he confirmed to them
their ancient Laws, *ad preces
Comunitatis Anglorum*. And then

Lambards Archaionom. f. 149.
ibid. the fragment of
Litchfield Chronicle, f.
158. *Hoveden*, f. 347.
n. 10.

IN all these we are told what
William did, *ad preces Comu-
nitatis, Baronum, or Anglorum*;
runs

A

B

C

D

E

F

runs on with a Citation out of Sir Edward Cokes Preface to the Eighth Report.

A that he could find no other Remedy, or that he was forced to yield to their Requests. Was he not Crowned, and made King by and under the influence and power of an Army? Was not that Army still with him? Why then do you say he could find no other Remedy, than to consent to their Petitions? Cannot crafty designing Men yield, though with reluctancy, what they cannot be forced to? Have they not often complied, though they had power to do otherwise? See more of this matter in this Answer, f. 241. D. E. f. 250. C. D.

B *Argument. Antinorm. p. 29, 30. Mat. Paris, in vita Fretherici out of Mat. Paris, in vit. Frether. Abbat. f. 48.* *Mat. Paris, in vita Fretherici Abbat. St. Alban. fol. 48. n. 30, 40.*

C **F**Or the good of Peace, William Sware upon all the Reliques of the Church of St. Albans, touching the Holy Gospel, Abbat Frederic Administring the Oath, the good and approved ancient Laws of the Realm, which the Holy and Pious Kings of England his Ancestors, and especially King Edward set forth, inviolably to keep. From hence he would prove that William was no Conqueror, and that he did not abolish the English Laws, or change them; and that he submitted his Will to be regulated and governed by Justice, and the ancient Rights of the Englishmen, pag. 30. and here again he would impose upon his Readers, by possessing them by this Fragment, that William did really observe and keep this Oath, and ruled accordingly.

D **R**Ex pro bono pacis Juravit super omnes Reliquias Ecclesie Sancti Albani, tactisque Sacrosanctis Evangelis (ministrante Juramentum Abbate Frithrico) bonas, & approbatas, antiquas Regni leges, quas Sancti, ac pii Anglia Reges, ejus antecessores, & maxime Rex Edwardus Statuit, inviolabiliter observare, & sic pacificati, ad propria lati recesserunt; and so they were appealed and returned to their own homes. Rex autem Caute propositum suum pallians; infra paucos dies, quos non poterat Confederatos, & Congregatos superare; singulos dispersos, ac semetos occulte ac subito studuit, incautos infestare, ac infestatos & infestos suppeditare. Multos eorum Trucidando, Exheredando, & quam plures proscribendo; Leges violans memoratas; & spoliatis Anglis pro libitu, ac sine Judicio Curiali depauperatis, suos Normannos, in suorum Anglorum naturalium, qui ipsum sponte sublimaverunt, provocationem, locupletavit, i. e.

E **F**The King craftily palliating his purpose, within few days privily and suddenly surpris'd them when single and disper'd, who being united in a Body, he could not overcome; Many he put to death, from others he took their Estates, and very many he banished: violating that Law he had Sworn to observe, taking away their Estates at his own pleasure, without Judicial Proceedings, thereby impoverishing the Natural English, and enriching his Normans.

In

In the Seventh or Eighth of King *William*, the *Saxon* Nobility and Clergy that were left, raised an Army against him, and Rendevouzed at *Berchamstead*, and he to pacify them Swore as above; by which Oath when he had made them secure, and circumvented them, he used them as we have heard.

Could you without your art of concealing, have produced this Story, to have proved, that King *William* observed the good, approved, and ancient *Englisb* Laws? Could you have vouched it to prove, that he submitted his Will to be regulated and governed by Justice, and the ancient Rights of *Englisbmen*, without unheard of, and frontless Partiality? Yet these are the Inferences you make from the Sound only of your Scrap, p. 30.

Argument. Antinorm. p. 33.

Nay though every body will acknowledge, that *Harold* came to the Imperial Crown of *England* by a general Election of the chief of the Nation, yet there is an ancient Author calls him Conqueror; and cites only *Ralph de Diceto*, in *Abbrev. Chr.* col. 479. to prove it; *A totius Angliæ primatibus ad Regale Culmen Electus* are his words; and only these he cites there in the Margin.

the chief of the Nation, who by King *Edward* had been named his Successor to the Kingdom; See in the *Glossary* the word *Electus*. Further, Nor did every body, nor most of our best and ancientest Historians know it, for in this Answer (as above noted) it appears, that *Pictaviensis*, *Ingulph*, *Malmsbury*, *Hen. of Huntington*, and *Mat. Paris* judged him an Usurper, affirming, that by fraud and force he set the Crown upon his own Head. And our Author is unlucky in this point, for he confesseth it himself, P. 6. Hereupon considering how *Harold* had trickt him, and set the Crown on his own Head, he sends over several Ambassadors, &c. For what end did you conceal the greatest part of this Relation in *Ralph de Diceto*? Was it not, for that if you had cited it fairly, the meaning of it could never have served your purpose?

Argument. Antinorm. p. 25, 26. *Malmsbury*, f. 46. b. lin. 6. out of *Seld. Tit. of Hon.* and n. 10. fol. 523. and he from *Malmsbury*.

This *William* the First with his French and Normans, putting many hardships upon the

Rad. de Diceto, Col. 479. n. 10. Answer to Argument. Antinorm. f.

Pacificus Rex Edwardus, Epiphania Domini-vigilia, mortem obiit Lundonie; Haraldus Godwini filius, quem Rex ante suam Deceffionem, Regni Succellozem Elegerat, a totius Angliæ primatibus, ad Regale Culmen Electus, &c. This one Author is not every body, and if he were, these words will not prove that *Harold* was elected, but only accepted and submitted unto by

Tostinus a. Rege Edwardo post mortem Siwardi Northan-imbria Comitatus Prelatus, penè decennio provincia præfuit, quo exacto, asperitate morum Northan-Englisb,

A English, which occasioned great disorders and convulsions in the State, several of the Saxon chief Nobility betook themselves to Arms for the sake of their *avita Consuetudines*, to which they bore an immutable and immortal love, and which they feared some were endeavouring to take away and change them; though on the other hand they were obstinately resolved never to part from them, for they had a *majoribus didicisse, aut libertatem, aut mortem*; and they would rather undergo the worst Calamities of a more cruel War, than they would tamely quit and abandon those dear Laws and Customs to which they had so long been used, and were so well acquainted with.

C The King hereupon to keep the People in a greater observance of their Duty, and withal not forgetting the Oath he had taken at his Coronation, caused twelve of the most Discreet and Wise Men in every Shire throughout England, to take an Oath, to declare and lay open their Laws and Customs, without concealing, adding, or varying from the truth. See more in the Answer, f. 259, 260.

E 'Tis clear from it self, that this pretty Tale is all founded upon the words, *a majoribus didicisse, aut libertatem, aut mortem*, which were never uttered in this case, nor to this purpose, as appears in Malmsbury, from whence their Original.

F *cestors, either to enjoy their Liberty, or hazard their Lives*; and if the King would have them obedient, he should send Morcar the Son of Algar for their Earl. Harold considering the Peace of the Country, more than the Advantage of his Brother, withdrew his Army, and coming to the King, fixed Morcar in the Earldom.

Were you not in a Dream when you transferred this Story of Tosti and the Northumbrians, to William the First, and the English-Saxons?

Q 9

Argument.

imbros in Rebellionem excitavit. Solitarium enim repertum ex regione fugaverunt, pro contuitu Ducatus occidendum non arbitrati: Homines ejus & Anglos, & Danos obtruncarunt, equos, & arma, & supellectilem omnem Corradentes; Rumore ad Regem delato, turbataque patria, Haroldus ivit obviam, ut propulsaret injuriam. Northanimbri licet non inferiores numero essent, tamen Quieti Consulentes, factum apud eum excusant; Se homines libere natos, libere Educatos, nullius ducis ferociam pati posse, a majoribus didicisse, aut libertatem, aut mortem. Proinde si subditos velit, Wacerium filium Elgari eis præciat Rex. Hac Haroldus audiens, qui magis Quietem patriæ, quam fratris Comodum attenderet, Revocavit Exercitum, & adito Rege, firmum Ducatum Wacerio Constituit.

King Edward after the death of Siward, made Tostin Earl of Northumberland, who by his rough temper forced the People into Rebellion, and finding him without an Army, drove him out of the Country, killed his Men or Vassals, both Danes and English, seizing upon their Horses and Arms, and all their Goods. Which being reported to the King, he sent Harold to chastise them. The Northumbrians, though not inferior in number, consulting their own quiet, excuse the Fact, saying, *They were Men freely born, and freely educated, and could not endure the Cruelty of any Duke or Earl, That they had learnt from their An-*

Argument. Antinorm. p. 57.
out of Sim Dunel. f. 214.

Sim. Dunelmen. Col. 214. n.
30. Anno Dom. 1088.

THere is one thing more I cannot but mention, and that is, the inconsiderateness of those Men, who so mightily cry up the absolute Conquest of William the First over the English, as if they were utterly broken or crushed, and all their Laws and Customs destroyed; when as it is demonstrably manifest, that at the time of Robert and his Normans Treason and Conspiracy against William Rufus, then King, and his Brother, to cut off him, and make Robert King in his room; I say, then the Interest of the English was so great and powerful, that it kept the Crown upon Rufus his Head, maugre all the power of the Normans, who universally joyned with Robert; and all this is easily proved, from a Scrap of four words in his Margin, out of Simeon of Durham, Anno 1088. f. 214. *Angli eum fideliter iuvabant.* The English faithfully assisted William Rufus.

or kill him, and deprive him of his Kingdom. The chief in this Execrable Practise were Odo Bishop of Bayeux, and Earl of Kent, and Goffrid Bishop of Constance in Normandy, Robert Earl of Mortaign, the Conquerors half Brother, and Roger Earl of Shrewsbury, and the greatest Men of England, except Lanfranc the Arch-Bishop. And number 60, in this Column, he adds to the Friends of Robert, Roger Bigot. Florence of Worcester adds William Bishop of Durham (as he says) a Wise Man, who at that time managed all the Affairs of the Nation; and Eustachius the younger Earl of Bulloign, and Robert de Belesmo, fol. 642. Ordericus Vitalis adds, Hugh Grentmaison Earl of Leicester; His Author Simeon of Durham relates what these did in their endeavours to set up Robert, and then proceeds: *Hoc audito, Rex fecit Convocare Anglos, & ostendit eis traditionem Normannorum, & rogavit, ut sibi auxilio essent; eo tenore, ut si in hac necessitate sibi fideles existerent, meliorem legem, quam velent eligere, eis Concederet; & omnem injustum Scottum interdixit, & Concessit omnibus, Sylvas suas, & venationem. Sed quicquid promisit, parva tempore Custodivit; Angli tamen ei fideliter iuvabant,* Col. 215. lin. 1. &c. The King hearing what was done, called together the English, and declared to them the Treason of the Normans, and desired their assistance, upon condition, That if they would be faithful

Hoc anno inter Primates Anglie orta est discordia, Pars etenim Nobilium Normannorum favebat Regi Willielmo; sed Minima: pars vero altera favebat Roberto Comiti Normannorum, & Matima; Cupiens hunc sibi asciscere in Regnum; fratrem vero ejus, aut fratri tradere vivum, aut regno Privare peremptum. Hujus execranda rei Principes extiterunt, Odo Episcopus Bajocensis, qui & erat Comes Cantuariensis, & Goffridus Episcopus Constantinensis, & Rodbertus Comes Moritunensis, & Rogerus Comes Scrobbsbyriensis; & Excellentiores principes totius Anglie, excepto Lanfranco Archiepiscopo, i. e. This year there arose a great Division between the chief Men of England, for part of the Noble Normans favoured King William, but the least; the other part favoured Robert Earl of Normandy, which was the greatest; intending to make him King, and to deliver his Brother to him alive,

faithful to him in this necessity, he would grant them the best Law they would choose; He forbade all unjust Scots, (*i. e.* Collections or Tallages) and granted to all their Woods, or Forests, and Hunting. But whatsoever he promised he observed but a small time; yet the *English* assisted him faithfully. This Author doth not mention who, nor what *English* they were, nor do any of our ancient Historians that I have seen; and therefore we must have recourse
 A unto Ordericus Vitalis, an *Englishman* born, and a *Norman* Monk at this time, who gives an account what they were, fol. 667. C. His words are these: *Omnes Episcopi Angliæ, cum Anglis sine Dolo Rege iurabant, Hugo Comes Cestrensis, & Robertus de Bolbain Nordanhumbrore Comes, & Guillelmus de Guarena, ac Robertus Paimonis filius, alique Legitimi, maturique Barones, Regi fideliter adhibebant, eique armis & Consilio contra publicos hostes Commode fa-
 B vebant.* All the Bishops of England, with the *English*, without fraud assisted the King, *Hugh* Earl of Chester, *Robert de Mowbray* Earl of Northumberland, *Robert Fitz-Hamon*, (he was Earl of Gloucester, and had the Estate of *Brichtric*, the *Saxon* Earl thereof before the Conquest, given him, *Monast. vol. 1. f. 154. col. 2. n. 40.*) and *William de Warena*, and other lawful and ancient, or rather true and discreet Barons, adhered faithfully to the King, and helped him by Arms and Counsel against the publick Enemies. Besides these, I find *Robert de Roelent* particularly named as his General
 C against *Rocheſter* Castle. By these, and the Aid of *Roger* the great Earl of *Shrewsbury*, who was drawn and wheedled off from the Party of *Robert*, *Malsbur. fol. 68. a. n. 10, 20.* the Confederacy against *William* was broken and destroyed.

If you had not been more eager in pursuit of a Scrap, than the Truth in this Relation, you might have observed, that the *Primates Angliæ* were on both sides, that the *Primates Angliæ*, the
 D Chief of England were the *Nobiles Normanni*, the Noble *Normans*, and that they were both the same Persons as to Extraction, whereof the least part favoured King *William*, and the greatest Earl *Robert*. You might also have observed, that the *English* that *William* called together to advise and assist him in his Difficulties, had Woods (no small ones certainly) or Forests, and pretended to liberty of Hunting in them, and if you can shew that the Bulk of the *English* had such Possessions, or Privileges at that time, (as
 E they must have done, if your Assertion be true) I will forgive you this slip. You might also have observed, (if you had thoroughly understood this Story) that all the *Primates Angliæ*, or the *Nobiles Normanni* particularly named on both sides, were really *Normans*, and not an *English-Saxon* amongst them; and that these great Men particularly named were those *English* that *William* called together; for 'tis not to be supposed he would propound and discourse of such great Affairs with little ordinary People. And lastly,
 F from all these you might have observed, that it is highly probable, if not certain, that the *English* in this and many other cases mentioned, were *Normans* that had Estates in England, and lived there, and that the *Normans* were such as had Estates in England and lived in *Normandy*. More of which in the Glossary.

Argumentum Antinormanicum,
p. 110. LL. Gulielm. 55.
there cited in the Margin.

And one Law may be called the first *Magna Charta* in the Norman times, by which the King reserved to himself, from the Freeman of this Kingdom, nothing but their free Services due to him according to Law; In the conclusion saith, That they, to wit, the *English*, shall hold and enjoy their Estates well and in Peace, free from all unjust Exactions and Tallages; and this ratified and confirmed by the Common Council of the whole Kingdom.

Argumentum Antinormanicum,
p. 111. 112. out of *Dug-*
dales Orig. Juridic. f. 16.
as 'tis cited in the Margin,
p. 108.

The chief and principal Men of several Ranks and Degrees in Condition, were summoned by virtue of the Kings Writ, out of several respective Counties, Cities, and Burghs, to this general Synod or Parliament.

Appendix to *Argumentum*
Antinormanicum, p. 162.

For the Petition and Law is, That *Richard* the Second should be as free in his Regality, Liberty, and Dignity Royal

LL. 55. Will. primi, Lamb.
fol. 170.

Volumus etiam & firmiter
præcipimus & Concedimus,
ut omnes liberi homines totius
Monarchie Regni nostri, habeant
& teneant terras suas bene & in
pace ab omni Exactione injusta &
ab omni Tallagio, &c. as in the
English. What reason could
there be, that you should call
the liberi homines, the Freeman
in this Law mentioned, *English*?
Certainly none; but that you
intend to impose upon your
Readers. They are in this An-
swer clearly proved to be *Nor-*
mans, f. 299. where also may
be seen the Services they were to
perform.

Dugdales Orig. Juridic.
f. 16.

Here being mention made
before of Illustrious Per-
sons, or the chief of the King-
dom, it is said, *Hi autem illo*
Tempore, a Regia potestate, di-
versis provinciis, & urbibus, ad
universalem Synodum pro causis
cujuslibet Christianæ Ecclesiæ audi-
endis & tractandis, Convocati.
In the Translation of this you
have foisted in the word *Bur-*
roughs, to serve your purpose
the better, it not being to be
found in the Original, nor in
your own Citation of this place,
p. 109.

Answer to Mr. Petyt's *Rights*
of the Commons Asserted,
P. 43.

The truth is, the greatest
part of the ancient Law
under our ancient Kings after
as

A as any of his noble Progenitors Kings of *England*; Then it naturally follows, that he was to be as free and absolute as *William the Conqueror*. And then what is the Conclusion and Result, but that the *English* were neither to have, Estates nor Fortunes left them: and therefore it could be no great matter to them, by what Law, Right, or Property Men held their Estates. And for the last words, he cites the Answer to Mr. *Petyt's Rights of the Commons Asserted*, p. 43. and would make that Author guilty of an odious and vile assertion, by leaving out one little word, which carries the sense of the whole Sentence.

B the Conquest, was the Feudal Law, brought hither by the *Normans*, under whom it was more rigidly exacted and observed than in the *Saxon* times, and that by and upon only the *Normans* themselves. For the *English* had neither Estates or Fortunes left, and therefore it could be no great Matter to them by what Law, Right, or Property other Men held their Estates. Here you very disingenuously left out the word (other) before Men, which makes the sense of the words quite different from what you make it, and with the addition of that word, hath a very fair and just meaning, which cannot be perverted.

C Thus at your Request, I have shewn in many Instances, how partial you have been in your Citations, taking some fragments, or parcels of Sentences, or sometimes a short Sentence you thought might serve your turn, and always leaving what you could not but know would have destroyed your Notion and Argument; And also have evinced both here and throughout the Answer, how unjust or ignorant you have been in the Explication and Application of what you have cited, rendring and interpreting the words in several places, rather according to their sound, than true meaning. And therefore I expect you should, to make good your Engagement, discover your self, confess your Ignorance, Errors, and Mistakes, and declare how you have been misled into them: who set you on work, and the true design for which you wrote; and more especially, by what means, and for what end and reason you did so much abuse and corrupt the Record, by your false interpretation, application, and leaving unrecited part of it, 15 *Rich. 2. Rot. Parl. n. 13.* as I have shewn in my Answer to the Argument grounded upon it, in your Appendix, p. 161. Certainly you would never have alledged this Record, and many other Authorities you produce in this Book, had you thought any Man would have examined them, or endeavoured by Authentick History of those times to discover the true meaning of them. When you write again, cite fairly the Records and Authorities you make use of, and endeavour to find out the genuin and just sense of them, and abuse not, nor trouble the World by corrupting them with false, partial, forced, factious, and opinionative Glosses: and then reply to this Answer if you can, and write what you can on these Subjects, or any Man else.

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And so I will end this Answer as you do your Argument and Appendix, and in your own words, That my only [8.] design is the detection of Error, and Establishment of Truth to future Generations, and not to have the World imposed upon by the Tricks, Im-

(8.) Append.
p. 164. and
the last.

postures, and Artifices, which too many have been guilty of, either to promote their own particular gain and Interest, (to which such Men care not what they sacrifice) or upon a far worse and more grievous Consideration, to bring the whole Nation into dividing Parties and Factions; and thus by embroils and entanglements, to throw them at last into fatal Convulsions, to the destruction both of Prince and People. And that these have been the Effects of your Popular Scriblings, Partial Citations, designing Concealments of some, and wilful misapplication of other parts of History and Records, it is clearer than the Sun at Noon-day; and not without suspicion, that the misinterpreted, and misapplied Scraps, and Shreds in one of these Popular, Seditious Pieces, designed to overturn the Government, and published on purpose to usher in Anarchy and Confusion, written by an Inner Templer, and Dedicated _____ with other such like Stuff the Author might furnish him, did mightily contribute to the Seduction, and Rebellious and Traiterous Practises of a great Man, who laid violent hands upon himself, to prevent the Hand and Stroke of Justice.

And like to this Piece, are *Jani Anglorum facies Nova, Jus Anglorum ab Antiquo*, Reflections upon *Antidotum Britannicum, Londinum Triumphans, &c.* with many others of the same Batch. All written and tim'd, with design to promote Sedition, and in expectation of Rebellion, and the destruction of the Established Government.

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A
True and Exact
HISTORY
OF THE
SUCCESSION
OF THE
Crown of England,

Collected out of *RECORDS* and the Best
HISTORIANS.

Written at first for the Information of such as
were Deluded and Seduced by the Pamphlet
called, *The Brief History of the Succession*, &c.
pretended to have been written for the satisfac-
tion of the Earl of *H*.

The Second Edition much enlarged.

Together with Reflections upon the Bill of Exclu-
sion, and a full and satisfactory Answer to Mr. *Hunt's* Ar-
gument in his Post-script about the *Succession* of the Chil-
dren of *Rob. rt* the Second, King of Scotland, by *Elizabeth*
Mure his pretended Concubine, and *Enfame* his Wife.

In the *SAVOY*,

Printed by *T. N.* for *Samuel Lowndes* over against *Exceter-*
Exchange in the *Strand*, 1684.

1832:12

A
True and Exact
A
HISTORY
OF THE
B
CROWN, &c.

THe first that I have seen and noted, that directly asserted the Peoples or Subjects right and power to depose and punish their Kings, was *Johannes de Parisiis*, a [1.] Frier of the Order of Preachers, and a Schoolman, who flourished in the year 1296. and lived in *Paris* at the time of Discord between *Philip* the Fair, King of *France*, and Pope *Boniface* the Eighth: He wrote a Book *de potestate Regia & Papali*, Printed at *Basil* without Date, in which Book in the fourteenth Chapter he splits an Hair between the King and Pope, who maintained he had both [2.] Spiritual and Temporal Authority over the King. *De potestate vero Correctionis seu censura Ecclesiastica sciendum, quod non est nisi spiritualis directæ, quia nullam penam in foro Exteriori potest imponere nisi spiritualem, nisi sub conditione & per accidens; non enim potest Judex Ecclesiasticus ratione delicti, imponere penam Corporalem, vel pecuniariam, sicut facit Judex Secularis, sed solum si ipse velit eam acceptare. Si non vult eam acceptare, Compellet eum Judex Ecclesiasticus, per Excommunicationem, vel aliam penam Spiritualem, quæ est ultima quam potest inferre, nec ultra potest aliquid facere, nisi dico per accidens, quia si esset Hereticus, & incorrigibilis, & Contemptor Ecclesiæ, posset Papa aliquid facere in populo, unde pravaretur ille seculari honore, & Deponatur a populo. Et hoc faceret Papa in Crimine Ecclesiastico, Cujus Cognitio pertinet ad ipsum, Excommunicando, scilicet omnes, qui ei ut Domino obedirent; & sic populus ipsum deponeret & per accidens. Sic etiam è Converso, si Papa esset Criminosus, & scandalizaret Ecclesiam, & incorrigibilis esset, Princeps posset ipsum Excommunicare indirecte, & deponere ipsum per accidens, movendo scilicet ipsum per se, & per Cardinales: Et si quidem Papa quiescere nollet, posset aliquid facere in populo, unde Compelleretur cedere, vel deponeretur a Populo, quia Imperator posset sub Hypotheca rerum, vel pena Corporum inhibere omnibus & singulis, ut nullus ei obediret, vel serviret ut Pape, & hoc quidem potest uterque in Alterum.* The meaning of all which Scholastick, uncouth Discourse, is, That the Pope or Prince indirectly, and by a side Wind, and with the help of the People, may in some cases Depose each other; For this Assertion

[1.] *Bellarmin. de Scriptor. Ecclesiastic. ab An. 1200. ad 1300.* Some ancient Schoolmens Opinion about the Peoples Power to Depose Kings. [2.] *De Serres History of France. f. 200. A.*

Kings and Popes may depose each other by help of the People, as saith *Johannes de Parisiis.*

B. Murm in the place forecited, says he was more kind and inclinable to the King than to the Pope.

But a little further in this Chapter he is more exprefs, for the Power of the Barons and Peers of *France*, than he is in either of these Cafes. *Ubi vero Rex peccat in Temporalibus, quorum cognitio ad Ecclesiasticum non pertinet, Tunc non habet ipsum Corrigere primo, sed Barones & Pares de Regno, qui si non possunt vel non audent, possunt invocare auxilium Ecclesie, &c.* But where the King offends in Temporals or in Government, the Pope or Ecclesiastick hath no power to Correct him, but the Barons or Peers of the Realm; and if they either dare not or cannot meddle with him, they may then crave assistance of the Church. And for this Reason, after he hath told the Story how *Childeric* King of *France* was Deposed in the fifteenth Chapter, he says *Zacharias* the Pope did not depose him, but the Barons did it, and set up *Pipin* by his Consent, which they might have done without it.

Pipin was an Usurper, and *Childeric* was Deposed by his own Contrivance, notwithstanding he was set up by the Assembly of Estates, who that they might not lay aside the Fundamental Law of State in Succession, declared him first to be Heir to *Clotiv* the Great, *De Serres*, f. 46, 47, and 60.
* *Ludovicus* *Bavarus*, as he is termed in History. An Account of the Deposing *Childeric* King of *France*.

The next is *Marsilius Patavinus* in his Tract *De Translatione Imperii*, published in the time of the Emperor * *Levis* of *Bavaria*, who began his Reign *Anno Domini* 1314. Printed at the same time and place with the former Discourse. In the sixth Chapter, f. 230. B. he give an Account of the last mentioned Deposition of *Childeric*, &c. *Pipinus Caroli Martelli filius in rebus Bellicis Strenuus, Catholicus, &c.* *Pipin* the Son of *Charles Martell*, stout in War, Catholick, and famous for his honest Conversation, according to the Writings of Clerks, who endeavour to usurp to themselves Imperial Authority, was by Pope *Zachary* of a *Major-Domus*, made King of *France*; because (as they say) he Deposed *Childeric*, not so much for his Impiety, as his disability to Govern; and substituted *Pipin* in his place, and absolved all the *Frenchmen* from their Oath of Fidelity to *Childeric*. But *Aimoinus* in the Acts of the *French*, reports more truly, That *Pipin* was chosen King, and set up by the Nobility, (*per Regni Proceres*) the great Men of the Kingdom, and that he was Anointed by *Boniface* Arch-Bishop of *Rhemes*, (but truly of *Ments*) at *Soissons* in the Monastery of *St. Modard*. Whence 'tis clear *Zachary* did not Depose him, but (as some say) consented to those that did Depose him. *Nam talis Depositio Regis, & alterius Institutio proper rationabilem Causam, non ad Episcopum tantummodo, neque ad Clericum aliquem, aut Clericorum Collegium pertinet, sed ad Universitatem Civium inhabitantium regionem, vel Nobilitatem, vel ipsorum Valentiorum Multitudinem.* For such Deposing of a King, and setting up of another, pertains not to a Bishop alone, nor to any Clerk, or Colledge of Clerks, (he means the Cardinals, or such as were afterward called so) but to the University of the Inhabitants of the Country, or the Nobles, or the prevailing part of them. Thus far *Patavinus*.

Yet for all what is here said, and the great Character *John de Serres* gives of *Pipin*, and the low Esteem he hath of *Childeric*, (who was an easie weak Man) it appears by his Report of this matter, and may easily be [3.] made out, (though he is a great Friend to *Pipin*, and approves of the Action) That *Pipin* was an Usurper, and was made King by his own Contrivance, and Assistance of

[3.] History of *France*, f. 56, 57.

of the Pope, moved with hopes of Aid from him against *Aistulph* King of the *Lombards*, his great Enemy and Oppressor. And when the [4.] Estates of *France* or Parliament had resolved to lay aside *Childeric* and set up *Pipin*, yet they did it with great care, that the [5.] Fundamental Law of State (which was that of * Hereditary Succession by Blood) should not be directly infringed by this new Election, and therefore they bring him from the Race of great *Clovis*, (Grandchild to *Merovee*, who gave the name of *Merovingiens* to the first Race of *French* Kings, whereof this *Chilperic* was the last) of whom they said he should be acknowledged next Heir, seeing he approached nearest to him in Vertue.

[4.] *Ibidem*,
f. 60. A.

[5.] *Ibidem*,
f. 3. B. C.
* Where this
Fundamental
Law is to be
found.

About 200 years after [6.] *Jacob Almain*, a Doctor of Divinity, and Schoolman, in a Tract de *Potestate Ecclesiastica*, Printed at *Paris* without Date, in an old Character, Chap. 1. Tit. de *Divisione potestatis*, &c. Of the division of Power into Ecclesiastick and Secular, he lays down this Definition of Secular or Lay-Power. *Potestas laica sive secularis, est potestas à populo ex Successione hereditaria, vel Electione alicui, vel aliquibus tradita regulariter, ad Edificationem Communitatis, quantum ad res civiles, secundum leges civiles, pro consecutione habitationis pacificæ.* Lay or Secular Power is regularly given by the People to one or some, to be enjoyed by Hereditary Succession, or by Election, for the benefit of the Community, as to Civil Matters, according to Civil Laws, for the obtaining and preservation of Peace, *Ibid. f. 1. a. col. 2.* Having laid down this Foundation in another small Tract, de *Authoritate Ecclesie*, Cap. 1. Tit. de *Origine*, &c. Of the Origin of Civil Jurisdiction; He builds upon it this Assertion, That, *Tota Communitas*, &c. the whole Community hath power over the Prince Constituted by it, by which he may be Deposed, if he rules not to the advantage, but destruction of the Government, otherwise it should not have a sufficient power to preserve it self; and this Power the Community of *France* used when they Deposed their King, not so much for any Crime, as for that he was unable to Govern, *Ibid. f. 46. b. col. 1. Corollar. 3.* This was the case of *Childeric* again, as appears in the next subsequent words of *Almain*: and this Case is commonly the first Instance and Example in all the Writings of Schoolmen, Friers, and Jesuits, Calvinists, Puritans, Dissenters, and Republicans, for the Power of the People over their Kings, Princes, or Superiors. This Author says of himself at the end of the last Tract, That he wrote it in the year 1512.

[6.] *Bellarm.*
us *supra*. Ab
anno 1400,
ad 1500.

From these Schoolmen we pass on to *John Calvin*, who was born at *Noyon* in *Picardy*, and from his youth had an inclination to the Study of Divinity, and in his first entrance upon it, liked best the Reformed; and finding no encouragement in *France*, resolved to remove himself either to *Strasbourg* or *Basil*. From the later it was, that he writes and directs the [7.] Preface to his *Institutions of Christian Religion*, to *Francis* the First King of *France*, a great favourer of Learning and Learned Men, Aug. 1. 1536. in which he tells the King, That by lying Calumnies those of his Persuasion were traduced with Designs of wresting Kings Scepters out of their Hands, subverting Government, perturbing the Peace and Quiet of the People, and turning all things topsie turvy; which imputations

Calvins Opin-
ion of the
Subjects
power to De-
pose Kings.

[7.] See the
Preface in
fin.

[8.] *Heylins*
History of
Presbyt. f. 5.

if they were in the least degree true, the whole World might justly judge them worthy of a thousand Fires and Gallows, and therefore craves his Protection for their sublime Doctrine, which was above all the Glory of the World, and ought to stand invincible above all Power, because it was not theirs, but the Doctrine of the Living God, and his Christ; and after sufficiently reviling the then present Ecclesiasticks, Church, and Government of *France* for their very severe usage of them, he denies their enmity to Kings, and endeavours to persuade him to read with attention that Preface, and hear their Cause, and in great probability it was to please and wheedle this King, to whom he directed the Preface, that in the twentieth and last Chapter of the Book of this first Edition, *Seet.* 21, 22, 23, 24, 25, 26, 27, 28, 29. he laid down the Doctrine of Obedience, and the unlawfulness of Resistance in what case soever, with as much truth and clearness as perhaps any Man could do it. But when, as in this very Month of *August*, he was called to *Geneva* by the importunity of *Farrell*, and there [8.] made Divinity Reader, in the thirtieth Section and the last but one, he changeth his note, and destroys all his Orthodox Assertions concerning Obedience to, and the unlawfulness of the Resistance of Kings, or Supream Magistrates, and turns it off thus with a *de privatis hominibus semper loquor*; That all what he had said of Obedience and Non-Resistance, was only said and meant of private Men. For before he came at *Geneva* several years, *Viret* and *Farrell*, two Preachers that had imbibed the Doctrine of *Zuinglius*, and were addicted to his method of Reformation in *Switzerland*, dealt first with the Bishop to abandon the Pope, and Reform according to the Examples of *Zurich*, *Bern*, &c. but finding him inflexible, they practice with the People, and some under-Officers of the City, and in a Popular Tumult expel the Bishop (who was also Temporal Prince) with his Clergy out of the City, never to return more, and set up a Popular Government by a Common Council of 200, and four Annual Syndicks, to be chosen out of them, without the consent and against the good liking of their immediate Prince the Bishop, and their Supream the Duke of *Savoy*.

His second Edition of this Book, as appears by the Epistle to the Reader, was at *Strasbourg* 1539. when he was Banished from *Geneva*, and yet he retained this beloved passage.

These Rebellious Proceedings *Calvin* had allowed, as he says, in his Letter to Cardinal *Sadolet*, (*Quæ a Vireto & Farrello facta sunt, meo suffragio comprobavi*) so that he must justify them, and therefore when he had declared, that what he had said about Obedience, and Non-Resistance was only to be understood of private Men, he immediately goes on to defend *Viret* and *Farrells* unwarrantable, seditious, and turbulent Actions, in these words. *Nam si qui nunc sint Populares Magistratus ad moderandum Regum libidinem Constituti, quales olim erant, qui Lacedæmonis Regibus oppositi erant, Ephori: aut Romanis Consulibus, Tribuni plebis: aut Atheniensium senatui, Demarchi: & quæ etiam forte potestate, ut nunc res habet, funguntur in singulis Regnis tres Ordines, cum primarios Conventus peragunt; adeo illos ferocienti Regum licentia, pro officio intercedere non veto, ut si Regibus impotenter Grassantibus, & humili plebecula insultantibus Conniveant, eorum Dissimulationem nefaria perfidia non carere, affirmem: Quia populi Libertatem, cujus se Dei Ordinatione, Tutores positos norunt, fraudulenter produnt.* For if there now be any Popular Magistrates Constituted to restrain the Licentiousness of

of Kings, such as of old were set up against the Kings of *Sparta*, the Tribunes of the People against the *Roman* Consuls, and the *Demarchi* against the *Athenian* Senate, and with such power peradventure also, as things now are, the Three Estates in every Kingdom are endowed with, in their solemn and principal Conventions. I am so far from prohibiting such, to repress the unruliness of Exorbitant Kings according to their Office, that I affirm them guilty of a nefarious and perfidious Dissimulation, when they connive at Kings making havock upon, and insulting over the low and ordinary People, because they fraudulently betray the Liberty of the People, of which they know themselves Guardians by the Ordinance of God.

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B

C

Thus *Calvin* laid the Foundation of Rebellion cunningly upon Conditionals, as it were, and suppositions; Since which time most Presbyterians, Puritans, and Dissenters have turned his Conjunction Conditional into an Illative, his Adverb of doubting into an Affirmative, and his permissive (*non veto*) into a Verb of the Imperative Mood, in their Discourses against Tyrants, (as they call them) but of their own making, in their Books of the Rights of Magistrates, and Duties of Subjects, of Secular Government, and Ecclesiastick Discipline; but never were wretched Men more miserably abused and deceived than by *Calvin*, nor never any Mans Ignorance in History more clearly discovered than his, in laying down this Historical Foundation of the *Ephori*, *Tribunes*, and *Demarchi*, and rearing upon it the Structure of Sedition and Rebellion.

Calvin mistaken in the Office and Employment of the *Ephori*, *Tribunes*, and *Demarchi*.

D

E

F

For the *Ephori* were at first chosen by the Kings of *Lacedemon* themselves to curb the Senate, which began to incroach upon Regal Power, to be subservient to them, to sit in Judgment for them, and discharge such Offices as the Kings pleased to trust them with in their times of absence. And Secondly, The Tribunes were first instituted to no other purpose, but to preserve the People from unjust Oppression, and that their opposition to the Consuls was accounted always to be against the first grounds, and a breach of the Laws of their Institution: and were at first chosen in *Centuriatis Comitibus*, where the *Patricii* or Noblemen had the greatest power. Both these sorts of Officers in process of time became Popular and Seditious, and studied how to humour, please, and serve the People, that they might serve them; and at length projected, and obtained their Elections by the Rabble, by whose assistance they committed the greatest Insolencies, and acts of Injustice in *Sparta* and *Rome* that have been heard of in the most Wild, Rude, and Barbarous Democracy or Anarchy, which in the end was their ruine and destruction in both places. And as for the *Demarchi*, they neither by Institution or Usurpation did oppose the Senate of *Athens* in behalf of the People, but executed their Commands upon the People, as their Duty bound them; Nor have the Three Estates of every Kingdom power to control the Actions of their Prince, as *Calvin* suggests; All which things are learnedly and solidly proved and demonstrated against him by Dr. *Heylin*, in his *Stumbling Stone of Disobedience and Rebellion*, Chap. 2, 3, 4, and 6.

From

John Calvin.

From *John Calvin* we will proceed with his Issue and Admirers. *Christopher Goodman* one of the Faction and Schism at *Francfort*, who removed from thence with *Whittingham* and *Knox* 1555. to the place of their Education *Geneva*, where he published a Treatise of Obedience, with the Approbation of the Divines of that City, Anno 1557. wherein he affirmeth, That if Magistrates transgress Gods Law themselves, and Command others to do the like, they lose that Honour and Obedience, which otherwise is due unto them, and ought no more to be taken for Magistrates, but to be Examined and punished as private Transgressors, (and the Judgment whether they Transgressed Gods Law or not, was always reserved to the Presbytery, Classis, Synod, or National Assembly.)

A

Whittingham.

Whittingham in his Preface to this Book, says, That if Kings and Princes refused to reform Religion, the inferior Magistrates or People, by direction of the Ministry, might lawfully, and ought (if need required) even by Force and Arms, to reform it themselves.

B

Knox.

[9.] In dangerous Positions Printed at London by John Wolfe, Anno Domini 1593. p. 15.
[1.] Ibidem.

Knox. [9.] God hath appointed the Nobility to bridle the inordinate Appetites of Princes, and in so doing they cannot be accused as Resisters of Authority; in his History, p. 343.

It [1.] is the Duty of the Nobility to repress the rage and insolency of Princes; in his Appellation, f. 13.

C

[2.] Ibidem.

Princes for just [2.] Causes may be deposed; in his History, p. 372.

[3.] Ibidem.

It is not [3.] Birthright only, nor Propinquity of Blood, that maketh a King lawfully to Reign above a People, professing Jesus Christ; *Knox* to *England* and *Scotland*, f. 77.

D

[4.] Ibidem, p. 16.

If Princes be [4.] Tyrants against God and his Truth, their Subjects are freed from their Oaths of Obedience; in the same place, f. 78.

They will make themselves Judges whether any Worship be Idolatrous or not.

[5.] Exact Collect. p. 20.

In his Exhortation to *England*, Printed at *Geneva* 1559. p. 91, 92. Neither Power nor Liberty be permitted to any of what Estate, Degree, or Authority that ever they be, either to live without the Yoke of Discipline, by Gods Word Commanded, either yet to alter, to change, to disannul, or dissolve the least one jot in Religion, which from Gods Mouth thou hast received; But if Prince, King, or Emperor would Enterprise to disannul the same, that he be reputed Enemy to God, and therefore unworthy to Reign above his People; Yea, That the same Man or Men that go about to destroy Gods true Religion once Established, and to erect Idolatry, which God detesteth, be adjudged to Death according to Gods Commandment. Nothing so common as for the *Geneva* Men, and *Scotch* Presbyterians, to rail against the Church of *England*, as it was Established by Queen *Elizabeth*, as an Idolatrous Church; And our *English* Presbyterians charge the Church of *England* with Idolatry, in their Remonstrance of the State of the Kingdom, [5.] December 15. 1641.

E

F

Beza,

Beza, Anno Domini 1560. Printed his Confessions, wherein he says, [6.] That there are Vices inherent in the Persons of Princes, though they be lawfully Established by Succession or Election, viz. Ungodliness, Covetousness, Ambition, Cruelty, Luxury, Lechery, and such like Sins, which Tyrants delight in. What shall be done in this Case to these Princes? I answer, (saith he) That it belongeth to the Superior Powers, such as are the seven Electors in the Empire, and the Statesmen of the Kingdom almost in every Monarchy; to restrain the fury of Tyrants, which if they do not, they are Traytors to their Countries, and shall before the Lord give an account of their Treachery. This Man succeeded *Calvin* in his Office and Power at *Geneva*, and likewise followed him in his Principles and Positions, as may be noted, scattered up and down in his Writings.

Beza.
[6.] p. 216.

B The *Scotch* [7.] Ministers and Preachers allowed of this Doctrine and Opinion, who having notice, that the Queen had Maſs ſolemnized with more than ordinary Pomp and Ceremonies on *All-Saints* day 1561. they admonished the Nobility of their Duty in their publick Congregations and Meetings, which was, to reduce the Queen to obedience of their Kirk Laws. And in a Discourse in a private House between the Noblemen and Ministers, they affirmed peremptorily, and persevered in their opinion, That the Noblemen might force her; but the Noblemen being the greater number, (and as *Buchanan* says) corrupted with Favour or Money, determined against the Ministers.

[7.] *Buchanan.*
Hist. Printed
at *Utrecht*,
1668. p. 679.
The *Scotch*
Preachers.

C In the year 1582. Aug. 23. certain Noblemen of *Scotland* restrained and [8.] imprisoned King *James* at *Ruthven* five or six days, for the preservation of his Person, and the perfecting of the Reformation of Religion, until they had removed from him such Persons as they thought fit, and obtained what they desired.

[8.] *Spotswo.*
Hist. f. 320,
321, &c.
King *James*
imprisoned at
Ruthven.

E On the Thirteenth of *October* following the General Assembly [9.] Ratifies this Rebellious Attempt and Surprize of the King, calling it only a Repair to the Kings Majesty, to seek Redress of the Disorders fallen out in the Common-wealth; and they Order all the Ministers within the Realm, upon the first occasion, publickly to declare to their Flocks, the peril wherein the Church of God, and true Religion, the Kings most Noble Person and Estate stood: with the Grounds that moved the said Noblemen unto the late Action; Recommending the same to the Consideration of all good Subjects, Exhorting them as they tender the Glory of God, and love the preservation of the King and Country, faithfully to concur and join with the said Noblemen in prosecuting the said Grounds, to the full deliverance of the Church, and perfect Reformation of the Common-wealth, &c.

[9] *Ibid.* f.
322, 323.
The Assembly
Ratifies that
Rebellion.

F In the year 1583. the King being at Liberty, by [1.] Advice of his Privy Council, declares this Fact Treason; and by Act [2.] of Parliament Convened on the Seventeenth of *December* that year, it was by universal Consent Enacted, That this Surprize and Restraint of the King, perpetrated in *August* by gone a year, was a Crime *Læſæ Majestatis*, hainous in it self, of dangerous sequel, and most pernicious Example, &c. In

[1.] *Ibidem*,
f. 326.

[2.] *Ibidem*,
f. 329.

De jure Magistratum, &c.

[3.] *Heyl.*
Hist. of Presb.
f. 75.
[4.] P. 49, 50.

In the year 1580. both these Books came forth in one Volume, but not say where Printed. The Author. Dangerous Positions, cites *Beza* as Author of the first.

[5.] *Heylin,*
ut supra.

Buchanan, De Jure Regni, &c.
Printed at *Utrecht* 1668.

* *Spotswoods*
Hist. f. 325.

Buchanans
Opinions
concerning
Kings.

In the year 1576. comes forth a Book with this Title, *De jure Magistratus in subditos, & de officio subditorum in Magistratus*; Of the Right of Magistrates over their Subjects, and of the Duty of Subjects towards their Magistrates. In the Title Page 'tis said to be Translated out of *French* into *Latin*, and to have been Printed, *apud Johannem Marefcallum Lugdunensem*, by *John Marshall* of *Lyons*. A Piece so wicked, and so destructive of Peace and Human Society, that neither Papists nor Puritans would own it; [3.] The first said, *Hottoman* a *French* Civilian and a Calvinist was the Author of it; Dr. *Reynolds* in the [4.] Conference at *Hampton-Court*, would make *Ficleny* a *Romish* Priest Author of it; but the then Bishop of *London* affirmed it to be the work of a Disciplinary, by which word a Presbyterian was always understood.

The next year following, as appears by the Epistle, dated *Jan. 1.* from *Soloturn* in *Switzerland* 1577. under the name of *Stephanus Junius Brutus*, was published a Book with this Title, *Vindicie contra Tyrannos*, The Assertion of the Liberty of the People against Tyrants. Both these Pieces are of the same Argument and Tendency; and it was from them that *Julian the Apostate* had most of his Hints, and much of the Materials, with which he built up his Doctrine of Resistance; and if ever he Replies to the Answerers of him, the Foundation and many chief particulars of his Replication will be found in them also. It was generally believed to have been written by *Beza* under these feigned [5.] names.

In the year 1579. *George Buchanan*, Tutor to King *James*, a violent Presbyterian, published a Treatise, the Title whereof is, *De Jure Regni apud Scotos*; The Right of the *Scottish* Kings. But in the Dedication to King *James* on the Tenth of *January* in the year aforesaid, he says, That in this Dialogue he endeavoured to explain what Right and Power there was amongst Kings and Subjects themselves from the beginning. And it was written to justify * the Proceedings of the Noblemen against Queen *Mary* in their Reformation of the Kingdom of *Scotland*.

1. In this Treatise (which is but an Abstract of *Junius Brutus* his *Vindicie, &c.* and of the Author *De jure Magistratum, &c.* put into a clearer method) he asserts, That the People have right to dispose of the Kingdom to whom they please, p. 11.

2. That Laws were invented by the People to restrain Kings, p. 14.

3. The People that give Empire, ought to appoint the *modus* or manner of that Empire, how the King shall Reign, p. 21.

4. Yet not the Multitude or Rabble, but certain select People of every Order, are to prepare the Design of the Kings Reign, and then propound it to the Judgment of the People, *Ibid.*

5. Princes that transgress the Laws are to be accounted as Wolves and Thieves, and such as come not under the fence of the Law are to be accounted Enemies to God and Man; and he that kills Wolves,

Wolves, and Noxious Animals, doth the *Publick* good Service, p. 36.

A 7. The *Scottish* Kings have all their Power from the People, and therefore they are above the King, and the Multitude hath the same Right over Kings, that they have over every one of the Multitude, p. 52. and may for just Causes be Deposed by the People, *Ibid.*

A 8. The Scripture Commands wicked Men should be destroyed without any exception of Degree or Order, and there is no more caution and respect to be shewed unto *Tyrants* than to private Men, p. 48.

B 9. The People are greater and more Excellent than the King, therefore when the King is judged by the People, the less is judged by the greater, p. 56.

10. If the Estimate of the People be taken, not from their number, but from their worthiness, not only the better part, but the greater part shall stand for Liberty, for safety, and for what is honest, p. 58. meaning hereby that the most worthy of the People (that is, those which the Presbyterians and Factious People shall esteem such) are the better and greater part, though not in number.

C 11. If a King doth not willingly submit, or cannot be forced to answer the Peoples Charge against him, he may be *killed*, and the People may raise War against him, and every private Man may kill him, p. 62.

D 12. An Usurper or Invader of Empire by force, if he Rules well, is to be obeyed, and not to be disturbed, or as he says, violated, p. 64.

13. Wicked Kings to be Excommunicated, as other wicked Men, and to be prohibited Human Society, that unless they Repent, they may perish as other wicked Men, by Hunger, Cold, and Nakedness, p. 65.

E This last is said in answer to this Question; What is the Censure of the Church concerning Tyrants? *Ibid.*

This Book with his History after his death was Censured in Parliament 1584. n. 134. and such as had any of them were to deliver them to the Secretary of State, or his Deputies, within forty days, or were to pay 200 l. or be punished in their Persons.

F Dudley Fenner in his *Sacra* [6.] *Theologia*, (Printed apud Eustathium Vignon, Anno Dom. 1586. with Cartwrights Epistle before it directed thus, *Ornatissimo & clarissimo fratri, & in Ministerio Collegæ, Domino Dudleio Fennero*) makes two sorts of Tyrants; one, *sine Titulo*, a meer Usurper without a Title; Another *in Exercitio*, in practice, who though he hath a lawful Title, doth not govern according to the Rule and Constitution of the Kingdom. The first, *Quisque privatus resistet*, Every private Man may resist; *etiam si post*

The People will make themselves Judges of their just Causes, and must do so to accomplish their Designs. Here they will and must judge again who are Tyrants, that is, any King they please to call so.

This Book and his History Censured in Parliament.

Dudley Fenner. [6.] Lib. 5. Cap. 13. p. 80. b.

t. i. e. medio tollet, and if he can may cut his Throat ; And as for the second, *Hunc tollant vel pacifice, vel cum Bello, qui ea potestate donati sunt, ut Regni Ephori, vel omnium ordinum conventus publicus*, Those that have such Authority, as the Ephori of the Kingdom, and Assembly of Estates, may either by Tryal or open War take him off.

Tho. Cartwright.
[7.] P. 180.

The same Cartwright in his [7.] Reply to the Answer to his Seditious Admonition, says, it is true, we ought to be obedient to the Civil Magistrate which governeth the Church of God, in that Office which is committed unto him, and according to that Calling, but it must be remembred, that Civil Magistrates must govern it according to the Rules of God prescribed in his Word, and that as they are Nourishes, so they be Servants unto the Church, and as they Rule in the Church, so they must remember to subject themselves to the Church, to submit their Scepters, to throw down their Crowns before the Church ; yea, as the Prophet hath it, *Isaiah 49. 23. to lick the dust off the feet of the Church.*

Anno Domini
1590, 1591.
Coppinger,
Hacket, &c.

* Printed
1593.

The Treasons and Conspiracies of Coppinger, Hacket, Arthington, Wiggington, &c. were projected for the setting up the Geneva Discipline, and Reformation according to that Platform ; and they were undertaken under pretence of an extraordinary call to it, and prosecuted (as they said) by the assistance and inspiration of the Holy Ghost ; They and their Complices were to kill some of the Privy Counsellors in the Star Chamber, to deprive the Queen or Depose her, to remove evil Counsellors from her, and set up Gods Holy Discipline ; All this is made out by their Letters, Examinations, and Correspondencies in the fourth * Book of *Dangerous Positions*, from Chapter the fourth to the fifteenth ; and 'tis very probable from the same, that the sober Godly Party, such as Cartwright, Charke, Travers, Egerton, Gardner, Cooper, Phillips, Sir Peter Wentworth, and Lancaster, did at least know of this Mad, Fanatical, Enthusiastick Design, notwithstanding they refused Conference with these Men, though happily not the very particulars of it ; for know they must by their Letters to them, that they were enaged upon some wild, extravagant, desperate Course, which they never revealed, but seemed therefore ready to take the advantage, if any happened, from the issue and success of it.

This restless Faction, notwithstanding the fate of Coppinger and Hacket, of Barrowe and Greenwood afterwards, and then of Udall, and Penry, abated not in their Seditious Zeal for, and furious desires of the Discipline and Religion of Geneva, and a Reformation of the Church of England according to that Platform, which they all affirmed to be according to the pure Word of God, but disquieted the Queen with Petitions, made bold, and often Applications to Parliaments to that purpose, and endeavoured to seduce the People from their Obedience, by swarms of Seditious Libels, and Treasonable Books, and Pamphlets ; and during all the Reign of King James, they kept on the same course, both in England and Scotland, as likewise all the Reign of King Charles the First ; in the last ten years whereof, the Presbyterian Practices (who were then the main Body of the Dissenters) were an exact Comment upon the Texts and

and Assertions of their Brethren, both Domestick and Foreign, as well for the Deposition as Murthering of Kings.

A The Arguments they use to maintain these wicked, and desperate; Treasonable, and Rebellious Courses, are clearly refuted and answered in the Replies and Duplies of the Ministers and Professors in *Aberdene*, concerning the Covenant, Printed by *Robert Young* the Kings Printer for *Scotland*, 1638. By *John Corbet* Minister of *Bonyl* in the Provostry of *Dunbarton*, in his Answer to the Information for Defensive Arms against the King, drawn up at *Edinburgh* by the common help and industry of the three Tables of the Rigid Covenanters, of the Nobility, Barons, Ministers, and Burgesles, with order they should be read to, and urged by all Ministers upon their Flocks, Printed at *Dublin* 1639. By Bishop *Usher* in his *Sacro-Sancta Regum Majestas*, Printed at *Oxford* in Quarto, 1644. and Re-printed in Octavo at *London*, 1680. and in Bishop *Sanderfons* Lecture upon the famed Law and Sentence, *Salus populi Suprema Rex Esto*. Let the safety and good of the People be the supream Law.

C Their Brethren the Jesuits, and many other *Romish* Divines hold the same Opinions, concerning the Resisting, Deposing, and Murthering of Kings and Supream Magistrates, and use the same Arguments for proof of them; and therefore lest the Presbyterians or Disciplinarians should take exceptions at me, for so great an omission, and for being partial, I shall mention some few of their great numbers.

D *Dominicus Soto*, of the Order of the Preachers, or a *Dominican* Frier, Professor of Divinity at *Salamanca*, and the Kings Confessor, in his Book *De Justitia*, Printed there *Anno Domini* 1556. lib. 5. artic. 3. f. 389. after he had determined it was lawful, for any private Man to kill an Usurper or Tyrant without Title, he says, *Atqui in secundo casu, &c.* But in the second Case, (meaning that of a lawful Prince, but Tyrant in Practice) the common Opinion is, No Man may kill him privately, The reason is, because he hath Right to the Kingdom, he is not to be deprived of it, but by publick Sentence, that he may be heard what he can say for himself; but Judgment being pronounced against him, any Man may be his Executioner.

Dominicus Soto.

E *Robert Bellarmin* a Jesuit and Cardinal, *Tom. 1. de Concil. lib. 2. cap. 19. f. 1256. col. 2. A.* Printed at *Ingolstadt* 1586. hath this Passage, *Si Rex degeneret, &c.* If a King degenerates into a Tyrant, although he be Head of the Kingdom, yet he may be Deposed by the People, and another may be chosen. And in his Treatise *De Laicis*, his Opinion is, That, *Singula species Regiminis sunt de Jure gentium, &c.* the kinds of Government are by the Right of Nations, not by the Law of Nature, for it depends upon the Consent of the People to set over themselves a King, Consuls, or other Magistrates; and if there be a Lawful Cause (of which they will be Judges themselves) the Multitude may change a Kingdom into an Aristocracy or Democracy, and so on the contrary, *De Laicis, lib. 3. c. 6. Tom. 1. f. 1774. Col. 1. B.*

Cardinal Bellarmin.

Franciscus Fe-
vardentius.

Franciscus Fevardentius, a Frier Minor, Doctor of Divinity, and Professor of the same at Paris, in his Comment upon the Book of Hester, Printed at Colon 1595. p. 86, 87. hath this Assertion; *Conventus legitimus Ordinum totius Regni, &c.* A Lawful Convention of the States of the Kingdom, which consists of Ecclesiasticks, Nobles, and Select Men of the People, when as they represent the Majesty, Power, and Face of the whole Kingdom, as a general Council of Bishops do Represent the whole Church, may Depose a pernicious King, a Tyrant, and an Enemy to Religion and the People, (of which things they will be Judges) and set up another in his place; and in p. 90, &c. reckons up twelve things for which he may be Deposed: Heresie, Schism, Study, Use, or Approbation of the Magick Art, Perjury, permission of Assassins, Simony, Sacrilege, violent striking of a Cardinal, violating of the publick Faith, Dissipation and wasting of the Publick Treasure, publick Tyranny, and for changing the Apostolick and Catholick Doctrine, &c.

Suarez.

Suarez another Jesuit says thus, *Potestas deponendi Regem potest esse in ipsa Republica, vel in summo Pontifice, &c.* The power of Deposing Kings, may be either in the Commonwealth it self, or in the Pope; In the Commonwealth alone for its necessary Defence and Conservation; and therefore if a Lawful King governs Tyrannically, and the Kingdom have no other remedy, but to expel and depose their King, the whole Commonwealth, by the Common Council of the Cities, and Nobles, may Depose him, *Defens. fid. Cathol. lib. 3. c. 3. Sect. 3. Tom. 1. fol. 415. col. 2.* Printed at Ments 1618.

And in another place he holds forth this Doctrine, *Postquam Rex legitime Depositus est, &c.* After a King is lawfully Deposed, then he is neither King nor Prince; and if therefore he endeavours to keep the Kingdom by force, then he is an Usurper; because not a Lawful King, having no true Title to the Crown; This is declared more fully in an Heretical King, for presently by Heresie he is in a manner deprived of his Dominion, and the Propriety of his Kingdom; after Sentence pronounced he is altogether deprived of his Kingdom, so as he cannot possess it by any just Title, and therefore he may be used as a Tyrant, and consequently may be killed by any private Man, *Ibid. lib. 6. c. 4. Sect. 14, 18.*

Guilielmus
Eftius.

William Eftius or Efty Doctor in Divinity, chief Professor thereof, and Chancellor of the University of Doway, delivers his Opinion in the following words; *Proceribus & Populo alicujus Regni, &c.* The Nobility and People of some Kingdom may lawfully resist their Superior, unjustly oppressing his Subjects; The reason seems to be, for that there doth reside in the Nobility and People a publick Authority, by which they may vindicate themselves from Tyranny, and choose a Lawful Prince, and so deprive him of Dominion and Empire if there be cause for it; But it is not lawful for a private Person by force to resist his Superior, although a Tyrant, *Multo minus de medio tollere*, much less to kill him, In his Comment upon the four Books of Sentences, *Lib. 2. f. 397. Col. 2. D. E.* Printed at Paris 1662. *cum approbatione Doctorum & privilegio Regis*; with the Approbation of the Doctors of the Faculty, and Privilege of the King.

Leonard

This is directly the Doctrine of John Calvin, and the Presbyterians.

A *Leonard Lessius* a Jesuit, and a Professor of Divinity at *Lovain*, is of the same Opinion in his Book *De Justitia & Jure*, Printed at *Lovain* 1606. *Si tantum excreseat Tyrannus, &c.* If a Lawful Prince becomes so much a Tyrant as he is intolerable, and there remains no other Remedy, first he is to be Deposed by the Commonwealth, or Parliament, or any other having Authority, and declared an Enemy, and then he ceasing to be Prince, any thing may be attempted against his Person, *Ibid. lib. 2. c. 9. Disput. 4. Sect. 12.*

Leonardus Lessius.

B *Petrus de Ledesma* a Dominican Frier, and Professor of Divinity at *Salamanca*, and died 1616. In his Book of *Moral Theology, Tract. 8. cap. 18. p. 511.* Printed at *Tournay* 1637. declares himself against private killing of Kings, and cites *Cajetan* and *Thomas* for that Opinion; but if they grow Tyrants, (if it be not easie or convenient for the People to procure the Popes Authority) *poterit populus Conventum agere, &c.* the People may call a Meeting of the States, or a Parliament, and Depose such a King, and if need be, take away his Life.

C *Lodovic* or *Lewis Molina*, a Jesuit, and Professor of Divinity at *Ebora* or *Evora*, an University in *Portugal*, in his Discourse *De Justitia, Tom. 1.* Printed at *Ments* 1616. is of the same Judgment, *Col. 143. n. 16. Non pertinet ad summum Pontificem Reges creare, & deponere, sed id pertinet ad Respublicas ipsas, Quarum est sibi Reges constituere, sic etiam est eos deponere, &c.* It belongs not to the Pope to Create Kings, or Depose them, that belongs to Commonwealths, who as they may Constitute to themselves Kings, so also they may Depose them, *postulante id recta ratione, occurrenteque justa & urgente causa*, upon any just and urgent Cause, right reason requiring it; which will never be wanting, according to the Judgment of the People.

Ludovicus Molina.

D *Adam Tanner* a Jesuit, and Professor of Divinity in the University of *Ingolstadt*, in his third Tome of *Scholastick Theology* there Printed 1627. *Disput. 4. Quest. 8. Dub. 3. n. 32, 33. col. 1236, 1237.* concurs with his Brethren, and gives his Reason for it, *Ratio est, Quia Respublica, &c.* the Reason is, That as the Commonwealth gave the Prince his Power, so they may take it away again, because the Commonwealth hath power of providing for themselves a Lawful Head, and such an one he is not, that from a Shepherd of the People, degenerates into a Wolfe.

Adam, Tannerus.

F *John Mariana* a Spanish Jesuit, in his Book *De Rege, & Regis Institutione*, Printed at *Ments* 1605. after having highly extolled the Fact of *Jacob Clement*, the Dominican Frier that Murthered *Henry the Third of France*, *Lib. 1. c. 6.* hath this passage, *p. 57. Certe à Republica unde ortum habet Regia potestas, rebus exigentibus, Regem in Jus vocari posse, &c.* Certainly the Commonwealth from whence Royal Power had its beginning, may call Kings to an Account upon urgent occasions, and if he refuseth to amend, may Depose him; for it never so transferred the Rights of Power to a Prince, but that it reserved a greater Power to it self, *p. 58. Qui vi & armis Rempublicam occupat, &c.* He that with Force and Arms seiseth a Commonwealth, and hath no other Title, doth truly and properly

John Mariana.

properly bear the name of Tyrant, may be destroyed by any one, p. 59. *Nam si Princeps populi Consensu aut Jure hereditario, &c.* For if Princes be Elective or Hereditary their Vices and Lusts are to be born withal, until they neglect the Laws of Modesty and Honesty, to which they are bound; but if they harass the Commonwealth, &c. then he propounds the degrees by which they are to be proceeded against. *Monendus inprimis Princeps erit, atque ad sanitatem reducendus, &c.* A Prince is first to be admonished, and brought to amendment, if he yields, gives satisfaction to the Commonwealth, and corrects the Vices of his former Life; he was to be resisted, and no other more severe means were to be tried; if he refused to receive Advice, and there was no hope of amendment; then Sentence may be pronounced against him, and he may be put from his Government; and because War must necessarily follow, the Commonwealth may consult about maintaining it, may take Arms, and Tax the People towards the Charge of it; and if the matter will bear it, and the Commonwealth can no otherwise defend it self, may kill the Prince, being declared a publick Enemy, p. 60. *Eademque facultas esto cuicunque privato, &c.* and every private Man may do it that hath thrown away all hopes of impunity, and hath the courage to strike in, and rescue the Commonwealth. But what if the opportunity or power of publick meeting be taken away from the People, as it may often happen? *Pax profecto mea sententia, judicium erit, &c.* in his Opinion there shall be the same Judgment, as when a Commonwealth is oppressed with Tyranny; for though the occasion of Convening the People be taken away, yet their will of destroying Tyranny remains, and he that favouring those publick Wishes shall attempt to kill him, *haudquaquam inique eum fecisse existimabo*, I shall think he did it not wickedly. *Neque periculum est ut multi eo exemplo in Principum vitam sevant, quasi Tyranni sint.* Nor is there danger that many may attempt the Lives of Princes, as if they were Tyrants; *Neque id quidem in cujusquam privati arbitrio ponimus*, neither do we place it in the pleasure of every private Man to judge who is a Tyrant, *non multorum*, nor in the opinion of many, *nisi publica vox populi adsit, viri eruditi & graves in Consilium adhibeantur*, unless it be the publick Vogue of the People, approved by Grave and Learned Men. Thus far *Mariana*. The People that do thus resist Princes, when they are once in Arms will be their own Judges, and whatever they say or publish, shall and must be, *Vox Populi*, the Vogue, and sense too of the People, though they are not the tenth Man, (as will presently appear in the Case and Murder of King *Charles the First*) nor will they ever want Grave and Learned Men, (at least in their own opinions) such as Presbyterian Divines in the Reformed Countries, Friers or Jesuits in the Countries which profess the *Romish* Religion, to advise and direct them, who, when, and what Princes are to be declared Tyrants, and what Rights and Royalties they are to claim as Fundamentally belonging to themselves.

Or thus, If not the publick Voice of the People, Learned and Grave Men may be consulted with.

James Keller. Dispersed through his Treatise.

This Treatise of *Mariana* was Censured and burnt by Secular Authority at *Paris*, and disallowed by Decree of the Colledge of *Sorbon*. But *James Keller* a German Jesuit, in his *Tyrannicidium*, or Treatise de *Tyranni internecione*, of Tyrant-Killing, Printed at *Munchen* in *Bavaria* 1611. Quest. 3. p. 38. & Quest. 5. p. 51. says it was

was only because he had extolled the Murther, or (as he calls it) only Slaughter of *Henry the Third, King of France*, and for a private Opinion which he published, that none of the Jesuits, Friers, Schoolmen, or Writers of the Church of *Rome* had holden or defended before him, that is, *it was lawful for any private Man to kill a Prince that could not be brought to Trial, or was not formerly Abdicated and Deposed by the People, or by them declared a Tyrant in publick Convention.* And says also, That the Colledge of *Sorbon* went no farther than the Council of *Constance*, *Sess. 15.* had done, which only condemns the Assertion, That every Tyrant may, and ought lawfully, and meritoriously be killed by his Vassal or Subject, by Clancular Treachery, or subtil Insinuation, notwithstanding any Oath made to him, *Non expectata sententia, vel mandato Judicis cujuscunque*, without the Sentence or Command of any Judge whatsoever; as Erroneous in Faith and Maners, Heretical, Scandalous, making way for Frauds, Lies, Treason, and Perjury, *Concil. Constant. Sess. 15. Labbee. Tom. 12. col. 114. C. D.* Printed at *Paris* 1672. yet for the other Doctrine of a double Tyrant, one without Title, the other in Practice, with a lawful Title, as hath been said before, he acknowledgeth it through the whole Tract, and avers it to be the Determination of all Schoolmen, Jesuits, and others; and in his Title-Page calls it *Scitum Catholicum*, The Catholick Judgment or Law.

From the Hints of some old Schoolmen, and the Principles of of *Zuinglius* and *Calvin*, and from the most ancient of these Discourses, the Treatise *De Jure Magistratus, &c. Junius Brutus* his *Vindicia, &c.* and *Buchanans* Dialogue *De Jure Regni apud Scotos*, Father *Parsons*, as will be evident to any Man that will compare them, gathered all the Materials of the first part of his Conference, about the next Succession to the Crown of *England*, in which he endeavours to prove, That Propinquity of Blood, though it be certainly known, is not a sufficient Title to the Crown, without other Circumstances and Conditions, to be found in the Person Pretendent; first Printed in the year 1594. and reprinted at *London* 1681. (to serve a turn) with the second part, which examineth the Titles and Pretensions of all such as might have Claim or Action to the Crown of *England*, what (as he pretends) may be said against them, and what for them. This Book as [1.] *W. C.* tells us in his Reply unto a certain Libel set forth by Father *Parsons*, in the name of United Priests, Entituled, *A Manifestation of the great folly, and bad Spirit of certain in England, calling themselves Secular Priests, &c.* Printed *Anno Domini* 1603. concerning the Book of Succession, put out in the name of one *Dolman* a Secular Priest, the whole Work is nought else, but a deceitful Conference and Treatise to set up an old rotten, feigned Title; and no less a Deceit it seemeth to be, that he (speaking of Father *Parsons*) would put it forth in the name of a Reverend ancient Priest in *England*, to bring him into danger for the same, p. 70. b. & 71. a.

The first [2.] Part is pretended to have been the Discourse of a Civil Lawyer, and contains for the most part, in nine Chapters, the very Principles of Sedition and Rebellion, pretended to be proved and maintained by very many Texts and Examples out of Holy Scripture,

[1.] That is, *William Clerke*, who was a Secular Priest.

See more of this matter in the places here cited.

[2.] Title-Page.

Scripture, Examples out of *Greek* and *Latin* Historians, Examples in *France*, *Spain*, *Germany*, and other Nations. The *English* Examples and Instances generally are partially cited, or misapplied, or not fully understood by the Author, and are matter of Fact only.

The Second Part is there said to be the Speech of a Temporal Lawyer, about the particular Titles of all such as might pretend within *England* or without, to the next Succession after *Queen Elizabeth*: which according to his account, were ten or eleven; yet this Author says, (if any body will believe him) that this Treatise was wrote out of [3.] singular Devotion and Affection to that Excellent Princess, and with special care of her safety.

[3.] In the Epistle Dedicatory.

It was Dedicated to the Earl of *Essex*, with design, after the *Queen of Scots* was taken off, [4.] to baffle the Title of King *James*, who was her immediate Heir; and either to fix it upon the Earl, (for whom he had made a Title) or to promote a Contention between the King and him about it, while by some means or other (which was the main intention) the Infanta of *Spain*, by a far-fetched, and only pretended Title, might obtain the Kingdom, and thereby advance their own Purposes and Religion.

[4.] *Camden. Eliz. f. 481, 482, 483.*

To this end there were several Projects put in practise by Father *Parsons*; as we find them in *W. C.* whose words are these. [5.] And touching the Colledges and Pensions, that are maintained and given by the *Spaniard*, (which he so often inculcates) we no whit thank him for them, as things are handled, and occasions thereby ministred of our greater Persecution at home, by reason of Father *Parsons* treacherous Practises, thereby to promote the *Spaniards* Title to our Country; and his hateful Stratagems, with such Scholars as are there brought up, inforcing them to subscribe to Blanks, and by publick Orations, to fortifie the wrested Title of the *Infanta*; Which Courses cannot but repay us with double Injuries and Wrongs, for the Benefits received.

[5.] *P. 52. d.*

And in another [6.] place he tells us, for the proof of the Scholars being urged to subscribe to Blanks, and to confirm the *Infanta* her Title to the Crown of *England*, is a matter very notorious and evident: we have divers Priests yet alive in *England*, to confirm the same by Oath, as well of them that were forced to subscribe against their Wills, as others that openly refused the same; I do therefore wonder, to see the Mans unshamefac't denial of so manifest and apparent Truth.

[6.] *Ibidem, p. 68. b.*

And speaking of this very Book of *Succession*, he says, [7.] concerning the Book of Titles, to have been read in the Refectory in *Rome* (meaning of the *English* Colledge there, whereof Father *Parsons* was then Rector) in stead of a Spiritual Lecture, used to be read at such times; There be divers yet that will depose the same against him; and Mr. *Lowbery*, now a Reverend Priest, was the Man should have read the same, but he rejected it, utterly refusing to meddle with such Stuff.

[7.] *P. 69. d.*

For

For his Practising with the Earl of Essex, *Watson* another Secular Priest tells us in his *Quodlibets*, p. 150, and 189. Printed 1602. that Father *Parsons* sent a Jesuit Priest to the Earl of Essex, to have had him to take a Pension of the King of Spain privately, for the advancement of his Designments, &c.

A How justly this Book is Censured by the Judicious *Camden*, and branded with perfidiousness, and design to delude, and abuse the People, raise Tumults and Seditions; The Reader may see in his *Elizabetha*, f. 482.

B In the year 1648. as a Preparative to the Deposition and Murder of King *Charles* the First, there was published a Pamphlet, and Printed at London by *Robert Ibbitson*, Licensed by *Gilbert Mabbot*, under the Title of *Several Speeches, delivered at a Conference concerning the power of [8.] Parliaments to proceed against their King for Misgovernment*; And the Heads in the Title-Page, upon which these Speeches are pretended to be made, are in number nine, and the very same *verbatim* with the Titles of *Dolemans* nine Chapters in his first part of the Conference touching the Succession to the Crown, and the matter and words of the Speeches themselves, almost in all things, are the very same, except the Transitions, Connexions, and some few not material Passages, which are left out.

C From these Discourses of *Junius Brutus*, the Anonimous Author of the Treatise *De jure Magistratum*, &c. the Dialogue of *Buchanon*, Book of *Mariana*, and First Part of the Conferences of *Doleman*, which by crafty Men were published by Retail in several Pamphlets, Speeches, Declarations, Pernicious Deductions, &c. and from the nine Speeches last mentioned, all the *Factions* in the late times of Rebellion were furnished with Arguments, Reason, Examples, and Pretences for their Seditious Practises.

E And the Suggestions of the Act for the Tryal of King *Charles* the First, the Charge against him, and the Materials of the Speech *Bradshaw* made to declare the grounds of the Sentence, and aggravate the things laid to his Charge, by misapplying both Law and History, were borrowed from these Presbyterian and Jesuitical Books; as likewise was much of the most Seditious part of *Miltons* Book, Entituled, *The Defence for the People of England*.

F And that the Charge against the King, and the words of *Bradshaw* in the Trial were drawn up from these Seditious Discourses, will best appear from themselves, as they were examined by the Original Copy, with *Gilbert Mabbots* Imprimatur. On the 20th of January being Saturday 1648. Cook the Solicitor spake thus to *Bradshaw*, My Lord, in the behalf of the Commons of England, and all the People thereof, I do accuse *Charles Stuart*, here present, of High Treason, and High Misdemeanors; And I do in the Name of the Commons of England desire the Charge may be read unto him. Which was in part as [9.] followeth;

That the said *Charles Stuart* being admitted King of England, and therein trusted with a Limited Power to govern by, and according

T t

to

[8.] This is the common cheat, to call the two Houses, or a prevailing Party in the two Houses, or in one House, a Parliament; So it was in the Reign of *Edward* the Second, *Richard* the Second, and *Charles* the First, that rebellious restless Faction that murdered them when they were Prisoners called themselves a Parliament: when as nothing can constitute a Parliament, but the King, Lords Spiritual and Temporal, and Commons, all assembled in perfect freedom.

[9.] The Charge, &c. p. 3.

to the Laws of the Land, and not otherwise; And by his Trust, Oath, and Office, being obliged to use the Power committed to him, for the good and benefit of the People, and for the preservation of their Rights and Liberties; yet nevertheless, out of a wicked design to erect and uphold in himself an unlimited and Tyrannical Power to Rule according to his Will, and to overthrow the Rights and Liberties of the People, &c.

[1.] Narrative of the Proceedings, &c. p. 6.

And being brought to his Trial Monday Jan. 22. he demanded by what Power he was called thither. Bradshaw Answers, [1.] *That if he had pleased to have observed what was hinted to him by the Court at his first coming, he would have known by what Authority; which Authority (says he) Requires you, in the Name of the People of England, of which you are Elected King, to answer them. Which the King denied.*

[2.] *Ibidem*, p. 12.

Bradshaw. Sir, [2.] *I must interrupt you, which I would not do, but that what you do is not agreeable to the proceedings of any Court of Justice; you are about to enter into Argument and Dispute concerning the Authority of this Court, before whom you appear as a Prisoner, and are charged as a high Delinquent, &c.*

[3.] *Ibidem*, p. 13.

Bradshaw again in the same Page; Sir, *I must interrupt you, you may not be permitted, you speak of Law and Reason, it is fit there should be Law and Reason, and there is both against you. Sir, The Vote of the Commons of England assembled in Parliament, it is the [3.] Reason of the Kingdom, and they are those that have given it Law, according to which you should have Ruled and Reigned; Sir, you are not to dispute our Authority, you are told it again by the Court; Sir, it will be taken notice of that you stand in Contempt of the Court, and your Contempt will be Recorded accordingly.*

[4.] *Ibidem*, p. 13.

The King. [4.] *I deny that, shew me one President.*

[5.] *Ibidem*, p. 14.

Bradshaw. [5.] *Sir, You ought not to interrupt while the Court is speaking to you; this point is not to be debated by you, neither will the Court permit it, if you offer it by way of Demurrer to the Jurisdiction of the Court, they have considered of their Jurisdiction, they do affirm their own Jurisdiction.*

[6.] *Ibidem*, p. 14.

The King. [6.] *I say Sir, by your favour, that the Commons of England was never a Court of Judicature, I would know how they came to be so?*

[7.] *Ibidem*.

Bradshaw. [7.] *Sir, You are not to be permitted to go on in that Speech, and these Discourses.*

After

A After [8.] several days Altercation between the King and Bradshaw about the Jurisdiction of the Court, which the King would not own, nor would Answer, Guilty or Not Guilty; Bradshaw proceeded to declare the grounds of the Sentence, where he said, That the Barons of old, when the Kings plaid the Tyrants, called them to Account, and did frænum ponere; That if they did forbear to do their Duty now, and were not so mindful of their own Honour, and the Kingdoms, as the old Barons were, certainly the Commonalty of England would not be unmindful of what was their preservation and safety; That this was not a Law of yesterday, but of old; and that the Kings Oath implied as much: and where the People could not have any other Remedy, the Parliament were to do it, who were Ordained to Redress the Grievances of the People.

[8.] Narrative of the Proceedings on the 27th of January, being the last day, p. 10, 11.

B Then repeating out of Doleman, the trite Story of the Ephori and Tribunes, and some Examples of Kings of France, Spain, Scotland, and England, that had either been Deposed or Murthered by their Subjects, or both. He says, As for [9] Succession by Inheritance, it was plain from the Conquest, that of twenty four Kings, one half of them came in by the State; That the Oath at his Coronation did shew there was a Contract and Bargain made by the People.

[9.] Ibidem, p. 13. All our Ignorant, Democratical Writers harp upon this String, and labour to persuade the People, as much as they can, that this is an Elective Monarchy.

C Who that reads this short Account of the Kings Charge and Trial, can deny the Proceedings to have been according to the Methods of the Presbyterians and Jesuits, or can deny that the lesser part of the People, when in Arms, will make themselves the greater? for the number of the Commons that passed their Act for the Kings Trial, were but forty six, not the tenth part of a House of Commons duely Constituted; and if the People had been asked one by one, not one in an hundred would have consented to the Kings Murther, or chosen such Representatives (if they might have had a free Choice) as would have consented to it; and yet this Charge is drawn up, and urged against the King, as the Act of the Commons, and all the People of England. Or lastly, Who can deny that they published for Law and Right, whatsoever they did or said, though it were never so Treasonable, Vile, or Wicked?

E Also in the year 1655. at London, was Printed an Abstract of Parsons his Book, containing the Substance and often the Words of it. The Chapters being divided into several short Sections, with Titles to each of them; This bears the name of *A Treatise concerning the broken Succession of the Crown of England*. To what end it was at that time published I cannot guess, unless to set up a Foreign Title, or make way for Oliver Cromwell's Kingship.

F And now lately there hath come forth a Pamphlet, under the name of *A Brief History of the Succession, collected out of the Records, and most Authentick Historians; for the satisfaction of the Earl of H.*

Much of the Materials of this Pamphlet, and most of the History contained in it concerning the Succession, are taken out of the Second Part of the Jesuits Book, the Speeches, and Abstract before mentioned; but this Authors industry leads him farther than Polydor

Virgil, who is mostly cited by his three Predecessors; and sometimes Stowe and Hollinshead. And for the making his Work more plausible and passable, and more readily to be received by his ordinary Readers, he takes very little notice of Polydor, (who pointed him to his Authors and Places) but cites William of Malmsbury, Henry of Huntingdon, Simeon Dunelm. Ailredus Abbas Rievallensis, Brompton and others, ancient Writers, in his Saxon Instances especially: whose Words, if faithfully cited, would have been of no use to him; for often, in the middle of the Sentences, and of Records he hath cited, he hath left out such Words and Matters as would have ruined the Design of his History. A Parallel of his Words, with the true Words of the Authors from whence he had them, will be given at the later end of this Treatise.

Hence we proceed to the Succession; by a true History whereof, Men will be able to Judge what was the Government, and how the Crown hath Hereditarily descended for many Ages in this Nation: And though History is so deficient, and the many Rencounters, and Invasions of one anothers Territories, and Bickerings between the petty Kings and Governors of the Saxons in the time of the Heptarchy, the Succession cannot well be made out; yet (though not inall) we may be able to make out a Succession in the greatest, and most illustrious Kingdom of them; which was that of the West-Saxons.

The Saxon Succession.

Egbert, who is commonly said to be the first Saxon Monarch, though he brought not the whole Heptarchy under his Power and Government, succeeded Brihtric, King of the West-Saxons. The Words of the Saxon Chronicle are these only; [1.] BEORHTRIC CYNING FORTHFERD & ECGRYHT FENG TO WEST-SEAXANA RICE. Which words the Translator thus renders, Beorhtricus Rex Occidentalium obiit, Egbrhythus Occidentalium Saxonum Regnum cepit.

[1.] Anno Dom. 801.

And [2.] Florence of Worcester, who strictly follows this Chronicle, says, Rex Occidentalium Saxonum Brihtricus obiit & Egbertus successit: That is, Brihtric died, and Egbert, King of the West-Saxons, took the Kingdom, or succeeded him.

[2.] Anno eod.

[3.] Simeon Dunelmensis says, Defuncto Rege glorioso Brihtrico Occidentalis regni, suscepit post ipsius obitum Regnum & Imperium Egbertus Rex, Qui ex regali illius gentis prosapia exortus Diadema totius regni capiti imposuit.

[3.] Anno Dom. 802.

[4.] William of Malmsbury is more particular in this matter, and reports the Jealousie Brihtric had of Egbert, Quem solum regalis prosapia superstitem, validissimum suis utilitatibus obicem metuebat, Franciam fugandum curavit. Who only of the Royal Line was left, and the greatest Check to his Design, he caused to fly into France.

[4.] De Gest. Reg. fol. 8. a. n. 10.

[5.] Nam

[5.] *Nam & ipse Brihtricus & ceteri infra Inam Reges licet naturalium splendore gloriantes, quippe qui de Cerdicio originem traherent, non parum tamen linea regia stirpis exorbitaverant.* For though Brihtric himself, and the rest of the Kings since *Ina*, boasting of their Lineage, as drawing their Origin from *Cerdic*; yet they did not a little exorbitate from the true Royal Line.

[5.] *Ibidem.*

A

The Pedigree of Egbert.

[6.] *Egbertus fuit filius Ealmundi, Ealmundus Eafæ, Eafa Eoppæ, Eoppa fuit filius Ingildi: Egbert was the Son of Ealmund, Ealmund of Eafa, Eafa of Eoppa, Eoppa of Ingild, [7.] the only Brother of Ina, King of the West-Saxons; who left his Kingdom, went to Rome, lived a Monastick Life, and died Childless.*

[6.] *Chron. Sax. Anno Dom. 854. Flor. Wigorn. 849.*

[7.] *Gul. Malm. fol. 7. a. n. 30.*

B

[8.] *Ethelwolfe succeeded his Father Egbert in the Kingdom of the West-Saxons, and he gave to his other Son Æthelstan his Conquests, Kent, East-Sex, Surrey and Sussex; of which he made him King.*

[8.] *Chron. Sax. Flor. Wigorn. Anno Dom. 836.*

[9.] *Malmsbury saith thus; Ethelwolphus West-Saxonum regno contentus, cetera que pater subjugaverat Appendicia, Æthelstano filio contraxit, qui quanto & quo fine defecerit incertum.*

[9.] *Fol. 20. a. n. 30.*

C

[1.] *Ethelwolph by Will divided his Kingdom between his Sons Ethelbald and Ethelbert. [2.] To Ethelbald he gave West-Saxony, to the other Kent, &c. and by his Will gave the Kingdom of West-Saxony to his Sons Ethelred and Elfred, after Ethelbald's Death, successively.*

[1.] *Malm. fol. 22. a. n. 20. & b. n. 30. Flor. Wig. An. Dom. 855.*

[2.] *Chron. Sax. Anno Dom. 854.*

Ethelbald lived but five years, when Ethelbert possessed the whole Kingdom, Ut justum erat, says, [3.] Asser, Florence of Worcester, and Simeon Dunelmensis.

[3.] *Fol. 4. n. 40. Anno Dom. 860.*

D

[4.] *Ethelred, third Son to Ethelwolph, and Brother to Ethelbert, succeeded him in his Father's Kingdom, who Reigned five or six years.*

[4.] *Flor. Wigorn. Chron. Sax. 866. Malm. fol. 23. b. n. 50.*

[5.] *Alfred, fourth and youngest Son of Ethelwolph, succeeded his Brother Ethelred. Fratribus suis Secundarius fuit: He was a Coadjutor, or Assistant to his other Brothers. Asser. fol. 7. n. 50.*

[5.] *Ibid. fol. 23. a. n. 40. Chron. Sax. Anno Dom. 871. Flor. Wig.*

E

To whom succeeded his Son [6.] *Edward, called the Elder.*

[6.] *Ib. Anno Dom. 901. Malm. fol. 25. n. 40.*

To him succeeded his Son [7.] *Æthelstan, EADWEARD CYNG FORTHFERD and ÆTHELSTAN his SUNN FENG to RICE. King Edward died, Ejusque filius Æthelstanus capescit regnum: And his Son Æthelstan succeeded in the Kingdom. These being the usual Saxon and Latin Words by which the Succession is expressed.*

[7.] *Chron. Sax. Anno Dom. 925.*

F

[8.] *Florence of Worcester, and Simeon of Durham, both say, Rex Edwardus Sen. ex hac vita transiens Æthelstano filio regni gubernacula reliquit: King Edward the Elder dying, left the Government of the Kingdom to his Son Æthelstan. [9.] Malmsbury says thus in the History of Edward the Elder; Jussu Patris in Testamento Æthel-*

[8.] *Both in An. Dom. 924.*

[9.] *Lib. 2. cap. 6. fol. 27. a. lin. 27.*

stanus

stanus in Regem acclamatus est : By the Command of his Father, in his Will, *Æthelstan* was proclaimed King.

[1.] Lib. 2.
c. 6.
[2.] Ibid. fol.
29. lin. 32.

By some *Æthelstan* is affirmed to be a Bastard, from the report of [1.] *William* of *Malmsbury*, in the Book and Chapters last cited : who tells us that one *Alfred*, a Man of [2.] great Insolence, and his Faction, opposed *Æthelstan*, upon pretence he was a Bastard. *Occasio contradictionis ut ferunt* (says the Historian) *quod Æthelstanus ex Concubina natus esset* : The occasion of Contradiction was, that *Æthelstan* was born of a Concubine, as was reported. *Sed ipse præter hanc notam, si tamen vera est, nihil ignobile habens* : But he had no other Mark of Ill upon him but this, if it were true. And telling the Story how King *Edward* the Elder (as it was reported) stole a Leap with a Shepherd's Daughter, by the help of his sometimes Nurse ; of whom, it is fabled, he begat *Æthelstan* ; he says he had it from [3.] trite Tales and Songs ; and that he related it not to defend the truth of it, but because he would keep nothing from his Readers. Nor indeed is the Story credible ; for the same Author in the same [4.] Chapter reports, that his Grandfather, famous King *Alfred*, in his Life-time wished him a prosperous Reign, embracing him as a Child of great Hope, and excellent Behaviour, and Knighted him in his Childhood ; putting on him a Scarlet Cloak, and girding him with a Belt set with Gems, and a Saxon Sword in a Golden Scabbard. This so wise and great a King as *Alfred* was, would never had said and done to a Bastard.

[3.] Ib. n. 10.

[4.] Ibid. fol.
27. l. 28.

Æthelstan
Knighted by
King *Alfred*.

[5.] *Edmund* his Brother succeeded *Æthelstan* in the Kingdom.

[5.] Chron.
Sax. Anno
Dom. 941.
Flor. Wig. Sim.
Dunelm. 940.
[6.] Ib. Anno
Dom. 946.

After him [6.] *Edred*, third Brother to *Æthelstan*, succeeded in the Kingdom, and was Consecrated King by *Odo* Arch Bishop of *Canterbury*. This was done in the Nonage of King *Edmund*'s Sons, when they were very young, and the Nation under great difficulties. The Saxon Chronology. says, *EADRED ÆTHELING* his Brother *FENG* to *RICE* *regnum cepit*. *Florence of Worcester*, *Edredus proximus hæres fratris succedens regnum suscepit*. [7.] *Malmsbury*, *Edredus tertius e filiis Edwardi regnum suscepit*. *Simeon Dunelmensis*, *Edredus frater Edmundi in regnum successit*.

[7.] Fol. 30.
a. n. 50.

[8.] Chron.
Sax. Flor. Wig.
An. Dom. 955.
[9.] Nothing
of this Story
in the Saxon
Chronology.
[1.] Chron.
Sax. An. Dom.
957.

Edwy [8.] the Son of *Edmund* succeeded his Uncle *Edred* : He banished *Dunstan*, turned out Monks, and placed Secular Priests in Monasteries ; and [9.] was so displeasing to the *Mercians* and *Northumbrians*, that they rejected him, and chose his Brother *Edgar* ; who also succeeded *Edwy* in the Kingdom of the *West-Saxons*. [1.] *Eadwigus Rex* Kal. Octobris obiit, and *Edgar* his Brother *FENG* to *RICE* : *Edwy* died on the First of October, and *Edgar* his Brother took the Kingdom. *Flor. Wigorn.* *Ab omni Anglorum populo Electus regnum suscepit*. [2.] *Malmsbury*, *Edgarus adolescentulus sedecem annorum regnum adipiscit*.

[2.] Fol. 30.
b. n. 40.

[3.] Chron.
Sax. An. Dom.
975. Flor. Wig.
975. Sim. Du-
nelm. 975.
[4.] Ibidem.

Edward his Son, called the Martyr, succeeded him ; *filiusque suum* [3.] *Edwardum & regni & morum heredem reliquit* : And left his Son *Edward* Heir, as well of the Kingdom, as of his Vertues and Endowments. But there happening a Contest between him and his Brother about the Succession, [4.] *Quidam Regis filium Edwardum, quidam*

A quidam illius fratrem eligerunt, Ethelredum : quam ob causam Archi-
presules Dunstanus & Oswaldus cum Co-episcopis, Abbatibus, Ducibus-
que quamplurimis in unum convenerunt, & Edwardum, ut pater ejus
preceperat, eligerunt, Electum consecrarunt, & in Regem unxerunt :
Some elected Edward, the King's Son, some his Brother Ethelred :
wherefore the Arch-Bishops, Dunstan and Oswald, with the Bishops,
Abbats, and very many Noble-Men, being gathered together,
elected Edward, (as his Father had commanded) Consecrated and
Anointed him King. [5.] This Contest was managed, and set on
foot by Elfrida, second Wife to Edgar, and Mother in Law to Ed-
ward.

[5.] *Malmf.*
fol. 33. b.
n. 40.

B Who [6.] by her Contrivance being Murthered, was succeeded
by his Brother Ethelred. FENG ETHELRED ÆTHELING his
BROTHER to RICE : and Ethelred Ætheling his Brother enjoyed,
or possessed the Kingdom.

[6.] *Flor.*
Wigor. Anno
Domini 978.
Sax. Chron.
An. Dom. 978.

C The Danes, ever since the beginning of King Egbert, having by
continued Invasions, harassed, and grievously wasted and molested
England, in the Reign of King Ælfred, by [7.] Pact and Bargain
between him and Guthrum, enjoyed East-Saxony, or Essex, and the
Country of the East-Angles, and a far greater part of this Nation,
as many think. And in this King Ethelred's Reign, Swane, King of
Denmark, with a great Army Invaded, and made himself Master
of the whole Nation ; forcing Ethelred and his Wife Emm, Sister to
Richard, second Duke of Normandy ; with their two Sons, Edward,
and Alfred, into that Country.

[7.] *Fad.*
Ælfred.
Gulbr. c. 1.
Lamb. fol. 36.

D But [8.] Ethelred had a former Wife Elgiva, Daughter of Duke
Thored : By her he had many Sons ; of whom Edmond called Iron-
side, being the third, Æthelstan and Egbert dying without Issue, by
the [9.] Election of the Londoners and West-Saxons, succeeded his
Father in the Kingdom.

[8.] *Ælfred.*
vit. Appen. 7.
fol. 210.

[9.] *Ingulph.*
fol. 507. b.
lin. 5.

E Florence of Worcester says, again, after the death of Ethelred, the
Bishops, Abbots, Dukes & quique Nobiles Angliæ, met, and chose
Cnute the Son of Swane ; but the Londoners, and that part of the
Nobility which was with them, by one consent made Edmunda
King.

Anno Dom.
1016.

F After [1.] several Battles fought, for the Sovereignty of the
Kingdom, between these two Pretenders and their Adherents, being
weary on both sides, they were persuaded to part the Kingdom be-
tween them ; which was done. But not long after Edmond died at
London : The Arch-Traytor [2.] Edric, after he had caused Ed-
mund's Brother Edwy to be Murthered, advised Cnute to kill his two
Sons also, Edward and Edmund. But he thinking it a great scandal,
and disgrace to him that they should be killed in England, sent them
to his Friend and Confederate, the King of Sweves, to be slain ;
who not complying with his desire, sent them to Solomon, King of
Hungary, to be preserved : where Edmund died, and Edward Married
Agatha, Daughter to Henry the Roman Emperor : by whom he had
Edgar Ætheling, Edmund, Christiana, who all died without Issue ;
and Margaret, Queen of Scotland, whose Daughter Maud was Mar-
ried to Henry the First.

[1.] *Ibid.*

[2.] *Ib. A. no*
Dom. 1017.

After

[3.] Fol. 509.
a. lin. 2.

[4.] Lib. 2.
c. 12.

Cnute had also
by Emme, a
Daughter
named Gun-
bild, Married
to Henry 3d.
Emperor of
Germany. Wal-
singh. Hypol.
Neustr. f. 4. 8.
n. 10.

[5.] Flor.
Wigor. Anno
Dom. 1040.

[6.] Fol. 164.
c.

[7.] Flor.
Wigor. Anno
Dom. 1042,
1043.

[8.] Malmf.
f. 450. n. 10,
20.

[9.] Gemet.
lib. 6. c. 9.

[1.] Ibidem.

[2.] Col. 372.
n. 30, 40, 50.

[3.] Sim.
Dunelm. Col.
189. n. 20.

After the death of Cnute, the Londoners, as [3.] Ingulph of Croyland, and [4.] William of Malmsbury do report, chose Harold; but the English had a mind to chuse Edward the Son of Ethelred, or at least Hardecnute the Son of Cnute by Emme his Wife, the Widow of King Ethelred, who was then in Denmark; and that he coming over, the Kingdom was divided between them; and taking Possession of his Share, returned into Denmark: and that Harold, in his absence, made himself Master of the whole Kingdom; who [5.] living only four years, after his death, both English and Danes sent for Hardecnute into Denmark to succeed him. The Author of the *Encomium* of Emme [6.] says, Cnute gave both this, and his other Kingdoms to his Son Harde-Cnute, by Emme.

Edward, [7.] by the Policy, Power, and Industry, chiefly of Earl Godwin, and Livingus Bishop of Worcester, was made King at London, and was Anointed King at Winchester by the Arch-Bishops of Canterbury and York, and almost all the Bishops in England. He being in England at the time of the death of his half-Brother Harde-Cnute [8.] was in a great streight, not knowing what to do, and thinking to retire into Normandy, as he was advised by the Normans, applied [9.] himself unto Earl Godwin, who minded him whose Son he was, and of his Right to the Kingdom; and agreeing to Marry his Daughter Edgith, and to other Conditions propounded to him, being forced by necessity to consent thereto, Godwin (a Council being immediately called) by his Reasons and Rhetorick, made him King. Gul. Gemeticensis [1.] saith, Hardecnutus reliquit Edwardum fratrem totius regni Haredem: Harde-Cnute left Edward his Brother Heir of the whole Kingdom.

Ailred, [2.] Abbot of Rievale, tells an idle Tale in the Life and Miracles of Edward the Confessor; that his Father, King Ethelred, being solicitous about a Successor, though he had at that time two Sons, Edmund Ironside, and Alfred; yet in a great Convention of Bishops and Noblemen before him, and a great Concourse of ordinary People, by the Prescience and Direction of God Almighty, this Edward was chosen King while he was in his Mothers Womb. *Præbet electioni Rex consensum, lati præbent proceres Sacramentum, & inusitato Miraculo in ejus fidelitate jurarunt, qui utrum nasceretur ignorarunt*: The King consents to the Election, and the Noblemen joyfully; and by reason of an unusual Miracle, swear Fealty to him before they knew whether ever he would be born. He is the only Author of this Legend that I know of, and do think it a little too gross to be believed.

Edward the Confessor designed his Nephew, Prince Edward, the Son of Edmund Ironside, for his Successor; and in the thirteenth year of his Reign, nine years before he died, sent for him out of Hungary, where he then was in Banishment; but in a short time after he died at London, [3.] Anno Dom. 1057. Clito Edwardus Regis Eadmundi ferrei lateris, filius, ut ei mandarat suus Patruus Rex Edwardus de Hungaria, quò multo anno in exilium missus fuerat, Angliam venit, decreverat enim Rex illum post se Regni heredem constituere, sed ex quo venit parvo post tempore vita decessit Londoniæ.

After

A After the death of Edward the Confessor, Harold [4.] *Throno Regio se intrusit*: And as Ailredus before cited hath it, [5.] *Quidam* Edgarum Adeling, cui Regnum Jure hereditario debebatur Regem constituere moliantur, sed quia puer tanto honore minus idoneus videbatur, Haraldus Comes, de genere Proditorum, cujus erat & mens astutior, & crumena facundior, & miles copiosior, sinistro omine Regnum obtinuit: Some endeavoured to make Edward Atheling King, to whom the Kingdom belonged by Hereditary Right: But because he was a Child, and seemed not fit for so great Honour, Earl Harold, a crafty Traytor, being better furnished with Money and Soldiers, by sinister Fate obtained the Kingdom. To the same purpose Henry of Huntington says, *Quidam* Anglorum Eadgar Adeling permovere volebant in Regem; Haraldus vero viribus, & genere fretus Regni Diadema invasit: That is, Some of the English would have had Edgar Atheling King; but Harold, being well furnished with Forces, and assisted by his Kindred, invaded the Crown, f. 210. b. n. 10.

[4.] Ingulph. f. 511. b. n. 50.
[5.] De Gen. R. g. Angl. Col 366. n. 50.

B From the various Expressions of the ancient Writers of the Saxon Story, concerning the Succession, an unwary Reader would think the Saxons agreed not in one Rule of Succession, or that they had no Rule at all. But whoever considers with understanding what here is said, will find they had, and pursued a sure Rule of Succession; which was either Right of Blood, or the Nomination and Appointment of the preceding King: (as we hinted before) which C Nomination by the Saxon Kings mostly happened in the Minority or Nonage of their Children, and that only [6.] was thought and allowed Cause sufficient, for the Father to prefer his Brothers Son before his own, or a Bastard, *Ut Pater fratris filium proprio, vel etiam Nothum anteferreret Germano*, before his lawful Issue. For by the subsequent Instances it will plainly appear, that the Saxons did in their Subjection, owning of, and submission to their Princes, acknowledge both Proximity of Blood, and Nomination of their Princes; D often both, sometimes only one of them; but never followed any other Rule.

[6.] Vt. Ælfred f. 9. l. 4. seq. 10.

E Æthelwolph, the Father of Ælfred, notwithstanding by Proximity of Blood his Sons were his Heirs, yet [7.] bequeathed his Kingdom successively to Ethelbald his Eldest, Ethelred his Third, and Ælfred his Fourth; having before given Kent, Surrey, and Sussex, &c. to his Second Son Ethelbert: [8.] yet he succeeded Ethelbald in all his Dominions, and Ethelred and Ælfred both succeeded him according to their Fathers Will, [9] notwithstanding it is said Ethelbert had two Sons, Athelm and Æthelwald. This Testament of Æthelwolph [1.] Florence of Worcester calls *Epistola Hereditaria*.

[7.] Testam. Ælf. Asser. f. 22. n. 2.

[8.] Flor. Wig. Anno Dom. 860. 866.
[9.] Vt. Ælf. f. 9. in Nor.
[1.] Fol. 584.

F Edgar [2.] *filium suum Edwardum & Regni & morum heredem reliquit*: Left his Son Edward Heir of his Kingdom and Endowments. Archipresules Dunstanus & Oswaldus cum Coepiscopis, Abbatibus & Ducibus quamplurimis una convenerant, & Edwardum ut pater ejus praeceperat, eligerunt, electum consecraverunt, & in Regem unxerunt: The Arch-Bishops Dunstan and Oswald, with their Fellow-Bishops, Abbats, and very many Dukes, or Prime Men, chose Edward, as his Father had commanded, and Consecrated and Anointed him King.

[2.] Flor. Wig. Anno Dom. 975.
Sim. Dunelm. libid.

See the word
Eligunt in
Glossar.

Eligerunt here signifies no more than *Recognoverunt*, They acknowledged, owned, submitted unto him as their King, as his Father had commanded, and by Will appointed.

This Kings Command was stricter than a *Conse D'eslire*; where the King nominated the Person to be chosen Bishop, and he is always accepted and owned by the Chapter; and yet they are said to chuse, though limited by the Kings Nomination. So in many Corporations and Bodies Politick, in this and other Nations, they have a Person nominated to them; and yet they are said to chuse him, though they can chuse no other.

[1.] *Sim. Dun.*
Flor. Wigorn.
An. Dom. 924.

Rex Edwardus senior ex hac vita transiens, [1.] filio Æthelstano Regni Gubernacula reliquit: King Edward the Elder dying, left the Government of his Kingdom to his Son *Æthelstan*.

[2.] *Malmf. de*
gest. Regn. 1.
2. c. 6. f. 27.
4. lin. 27.

[2.] *Æthelstanus jussu patris in Testamento in regem acclamatus est*: After him, his Brother *Edmund* swayed the Scepter.

[3.] *Flor. Wig.*
An. Dom. 946.

Cui [3.] Edredus proximus haeres fratri succedens Regnum suscepit: To whom *Eared*, the next Heir, succeeded his Brother *Edmund*, and undertook the Government.

What next Heir could *Edred* be to his Brother *Edmund*, but a Testamentary Heir? when at that time he left two Sons, *Edwy* and *Edgar*, both small Children, and both were Kings successively, after their Uncle; whose Guardian he only was, though the Historian says he was his Brothers Heir.

* *Du Fresn* his
Lexicon in
the word
haeredes.

Yet *Edred* had the Title of a King, and perhaps might be Crowned too, (if any of the *Saxon* Kings were so) with the same Pomp and Celebrity that was used afterward. The * Sons and real Heirs of Emperors, Kings, Dukes, Earls, Barons, were not always in ancient times called Emperors, Kings, Dukes, Earls, or Barons; but many times their Title was, the Heir only of the Empire, Kingdom, Earldom, Barony, &c. during their Minority: and their Tutor, Governor, or Protector, or such as had the Care of them, and the Administration of the Government, were sometimes called Emperors, Kings, Dukes, Earls, and Barons, of such Empires, Kingdoms, Dukedoms, Earldoms, and Baronies, until the Heir came of Age, and sometimes also those Curators, and Guardian Kings and Emperors were Anointed and Crowned.

Concerning this Testamentary Heir it is said, *Viventis non est haeres*; for the Testator might alter his Will when he pleased. These Testamentary Heirs were either *Scripti*, as when the Testament was written by the Testator: or *Nuncupati*, as when it was written by another, and Dictated by the Testator; or they were declared Heirs only before many Witnesses without Writing; and without doubt often it happened that our *Saxon* Kings did only call together the Bishops and Nobility, or such of them as they pleased, and declared their minds concerning their Successor.

Cnutoni

Cnutoni virorum dignissimo [4.] pater Swanus Sceptum commisit Regale. Swanus Danorum Rex Angliam vi suo subjugabat imperio; moriens ejusdem Regni Cnutonem Successorem constituit: Swane, King of Denmark, having subdued England by force; dying, appointed Cnute his Successor in that Kingdom.

[4.] Encomium Emmae, fol. 164. B.

A By Emme, Widow to King Ethelred, whom he had Married, and made his Queen, he had Harde-Cnute his Son: [5.] To him his half-Brother Cnute gave all that had been any ways under his Government. But Harde-Cnute being in Denmark when his Father died, whereof he had made him King, Harold possessed himself of England.

[5.] Ibid. c.

B Who was [6.] Cnute's Son by a Concubine, or a Bastard Son of a Maid-Servant brought into his Concubines Chamber, and imposed on him by her. And for this reason Elnoth, Arch-Bishop of Canterbury refused to Consecrate him King, and to deliver him the Crown, and Scepter.

[6.] Ibid. 174. A. B.

C Harold being dead, [7.] Harde-Cnute, so soon as he was confirmed and settled in this Kingdom, called his half Brother Edward by his Mother Emme (afterward called the Confessor) out of Normandy, and caused him to live with him; who dying within two years, [8.] Edwardum totius Regni reliquit heredem, left Edward Heir of the whole Kingdom. He could be no other than a Testamentary Heir, there being Heirs of the right Line, both of Saxon and Danish Blood, before him.

[7.] Gul Gem. lib. 6. c. 9.

[8.] Ibidem.

D Rex Edwardus [9.] Robertum Archiepiscopum Cantuariæ Legatum ad Gulielmum Comitem Normaniæ a latere suo direxit, illumque designatum sui Regni Successorem tam debito cognationis quam merito virtutis, sui Archiepiscopi relatu insinnavit.

[9.] Ingulph. Histor. f. 511. b. n. 40.

King Edward sent Robert, Arch-Bishop of Canterbury, Envoy to William, Earl of Normandy, to let him know he was appointed his Successor in his Kingdom, as well for that he was of his Kindred, as for his great Vertue.

With Ingulph agrees [1.] William of Poitou: and adds, the Succession was given to him by Edward, Cum Optimatum suorum assensu.

[1.] Fol. 181. D. These three last Authors were living at that time.

E Harold [2.] going to William, Duke of Normandy, to release his Brother and Nephew that were Hostages with him for his Father Earl Godwin's Good Behaviour towards King Edward, he told Harold that King Edward had faithfully promised him, that if ever he should be King, Jus Regni in illum jure hereditario post se transferret: That he would, after himself, transfer the Hereditary Right of the Kingdom to him. Yet [3.] Eadmer says, Juxta quod Edwardus ante mortem statuerat, in Regnum ei successit Haraldus: according as Edward had appointed before his death, Harold succeeded him in the Kingdom.

[2.] Eadmer, f. 5. n. 10.

[3.] Ibidem, n. 40.

F Florence of Worcester [4.] says, Haraldus quem Rex ante suam Deceffionem regni Successorem elegerat, a totius Angliæ primatibus ad regale Culmen electus est.

[4.] Fol. 632. Anno Dom. 1066.

[5.] An. Dom.
1066.

Simson of Durham [5.] hath the same words.

Harold, whom the King had chosen his Successor before his Decease, was elected to the Royal Dignity by the chief Men of *England*. Here we see how the *Election* was bound and limited, by the Nomination of the Successor, by the Predecessor.

[6.] Fol. 511.
b. n. 30.

These are the words of *Florence of Worcester*, and such as follow him. Which notwithstanding, he certainly was a plain Usurper according to [6.] *Ingulph of Croyland*, and *Ailred Abbas Rievall*. and *Henry of Huntington* before noted, the Donation of *Edward* being a meer pretence.

From *Egbert* the first *Saxon* Monarch, to *Ethelred* the last *Saxon* King, by Right of Blood, for the space of two hundred and sixteen years, we read not of many Elections: and where we do meet them, they are bound and limited by Proximity of Blood, or Nomination of the Successor by the Predecessor: And where the word Election, or any thing in that Sense is used, it signifies only a Recognition, and Submission.

The *Saxon* Expression concerning Succession and the Successor, is always the same. FENG to RICE, variously turned by Translators, *Regnum capessit* in the *Saxon* Chronology, which renders it *verbatim*; by others, *Successit, electus est, &c.* He took Possession of the Kingdom, He succeeded, He was chosen, &c.

The *Danish* Kings stayed not long here after *Svane* had Conquered the Kingdom; they all four Reigned not much above twenty five years, their best Title was the Sword: notwithstanding, they either brought hither the Custom of the Predecessor naming or giving the Kingdom to his Successor, as probably it might have been practised in their own Kingdoms; or used it as they found it here practised by the *Saxon* Kings.

The *Saxons* were very weary of the *Danish* Government, and without doubt, very forward to set up a King of their own Nation; yet the Donation of *Harde-Cnute* was as great a step for *Edward* the Confessor to the Throne, as the Power and Policy of *Earl Godwin* and *Livingus* the Bishop of *Worcester*.

Anno Dom.
1065. fol. 511.
b. n. 30.

Ingulph, Secretary to *William* when Duke of *Normandy*, reports the Donation of *England* to him very confidently, and as if in those times such Gifts were not much questioned: *Anno eodem Rex Edwardus senio jam gravatus, cernens Clitonis Edwardi nuper defuncti Edgarum, Regio solio minus idoneum tam corde quam corpore, Godwini-que comitis multam malamque sobolem, quotidie super terram crescere, ad cognatum suum Willielmum Comitem Normaniæ animum apposuit, & eum sibi succedere in Regnum Angliæ voce stabili sancivit*: In the same year, King *Edward* growing infirm with Age, perceiving *Edgar*, the Son of the late deceased *Edward Atheling*, neither in Mind, or Body, fit for the Government, nor to bear up against the growing Power and Malice of *Godwin's* Sons; thought upon his Cousin *William*, Earl of *Normandy*; and by a firm Declaration decreed he should

should succeed him in the Kingdom. King *Stephen* declares the same thing in his * Charter of Priviledges to *Westminster Abby* ; *Stephanus Dei Gracia Rex Anglorum, &c. Sciatis me, pro Redemptione Animæ meæ, & patris, & matris meæ, necnon & Beatæ memoriæ Regis Edwardi Cognati mei, Qui Abum meum Liberosque illius in Regnum suum adoptivos heredes instituerat. Stephen King of England, &c.* Know ye, that for the Redemption of my Soul, and the Soul of my Father and Mother, and of my Kinsman King *Edward* of Blessed Memory, who Constituted my Grandfather, (*William the Conqueror*) and his Children *Adoptive Heirs* of his Kingdom.

* Ex autographo.

The Norman Succession.

B From what hath been said, the Pretences and Causes of *William*, Duke of *Normandy*, his succeeding *Edward* the Confessor, and enjoying the Crown of *England*, are very evident ; as also, are the same to his Dukedom. [1.] He was the only Son of his Father *Robert* ; who going on Pilgrimage to *Jerusalem*, called together the Noblemen of his Dukedom, and brought his Son *William*, though Illegitimate, before them, and earnestly exacted of them, that in his stead they would chuse him their Lord : who, though but a Child, they forthwith, according to the Decree of the Duke, acknowledged him for their Prince and Lord, swearing Fealty unto him. [2.] Robertum ergo Archiepiscopum cum optimatibus suis Ducatus acceperunt, & illis velle se appetere Jerosolimitanam peregrinationem manifestavit, exponens autem eis Willielmus filium suum, quem unicum apud Falesiam genuerat ab iis attentissime exigebat, ut hunc sibi loco sui dum eligerent, Qui licet sub tenerrima detineretur ætati puerili juxta Decretum Ducis protinus cum prompta viracitate collaudavere Principem & Dominum, pagentes ei fidelitatem non violandis Sacramentis. And *R. Hoveden* affirms it to have been the Custom in *Norway* (from whence the *Normans* came) for Bastards to inherit, and that in his time it was so. [3.] Consuetudo Regni Norveici est usque in hodiernum diem, quod is qui alicujus Regis Norveici dignoscitur esse filius, licet sit spurius & de ancilla genitus, tantum sibi jus vendicat in Regnum genitus, & ideo fiunt inter eos prælia indefinenter, donec unus eorum vincatur, & interficiatur. And so it happened between the Curators of Duke *William* in his Nonage, and the Petenders as Heirs to his Grandfather of the Dutchy of *Normandy*.

[1.] Gul. Gem. lib. 5. c. 12.

[2.] Ibid.

[3.] R. Hov. f. 425. d. n. 20.

The same Right of Succession, as Testamentary Heir to his Father, *William Rufus* had to the Crown of *England*. [4.] Metuens Rex ne in Regno tam diffuso repentina oriretur turbatio, epistolam de constituendo Rege fecit Lanfranco Archiepiscopo suoque sigillo signatam tradidit Gul elmo Rufo filio suo, jubens ut in Angliam transfretaret continuo.

[4.] Fragm. de vita Gul. Conquestore, f. 32. n. 30. Ord. vit. fol. 659. C. D.

This was done a little before the Conquerors [5.] Death : and he did it for that his Son *William* always stuck close to him, and had in every thing, according to the utmost of his power, been dutiful and obedient.

[5.] Ibid. n. 20. 40. Ord. vit. ut supra.

[6.] Rufus

[6.] *Ib d. f.*
663. B.

[7.] *Flor. Wig.*
f. 642.

[8.] *De gest.*
Reg. f. 67. n.
20. Paru. f.
14. n. 10.

[9.] It was
then the Cu-
stom for Bi-
shops to make
Knights.
September 27.
f. 642. Anno
Dom. 1088.

[1.] *Malmf. ut*
sup. lin. 49.

[2.] *Flor. Wig.*
ut supra.

These English
were Stipen-
diary Soldi-
ers, *Paru. f.*
15. n. 10.

[6.] *Rufus* brought his Fathers Epistle, by which he had Constituted him King of *England*, to *Lanfranc* Arch-Bishop of *Canterbury*: who, having read it, halted with him to *London*, and Consecrated him King in the old Church of *St. Peter* at *Westminster* on the [7.] 26th. of *September*, his Father dying the 9th. of the same Month. [8.] *Willielmus Willielmi filius*, saith *Malmsbury*, a *patre ultima valetudine decumbente in Successorem adoptatus est, accessit & favori ejus maximum rerum momentum, Archiepiscopus Lanfrancus, eo quod eum nutrierat, & militem fecerat: quo Authore annisente, Die Sancto- rum Cosmæ & Damiani Coronatus est.* That is, *William* the Son of *William* was by his Father, in his last Sickness, adopted his Successor: but it was matter of great moment, and the greatest Addition to his Success, that Arch-Bishop *Lanfranc* had Educated him, and made him a [9.] Knight; by whose Authority and Endeavour he was Crowned on the day of *Cosma* and *Damianus*.

Florence of Worcester, who only says that he was Consecrated King at *Westminster* by Arch-Bishop *Lanfranc*, hath noted, that not long after his Coronation there arose great Discord and Contention between the chief Men of *England*: for part of the Great and Noble *Normans* favoured King *William*, but it was the least; and the other part of them favoured *Robert* Duke of *Normandy*, which was the greatest. *Odo*, who [1.] mortally hated *Lanfranc*, headed the Duke's Party, and *Lanfranc* headed the King's; who, with the King, [2.] *Congregato quantum ad presens poterat Normanorum, sed tamen maxime Anglorum, equestri & pedestri (licet mediocri) exercitu, &c.* Having raised such an Army as he could of Horse and Foot of *Normans*, but the greatest part *English*; (though but a mean one) and by using the common Bait of Liberty, declaring he would relax the rigid Laws, give free leave of Hunting, &c. Also by insinuating into *Roger* Earl of *Arundel* and *Shrewsbury*, the chief Person for the Duke, next unto *Odo* Bishop of *Baieux* and Earl of *Kent*, brought him off to his Party. By these means he brake the Force of his Enemies, and ever after ruled by an Army. More of this Story may be seen in *Eadmer. Ord. Vit. f. 666. &c.* *Florence of Worcester*, and *Malmsbury*, in the places before cited, who all lived at the time.

Here we see *Rufus* claimed as Testamentary Heir; * and by reason of that Claim was advanced to the Throne, by the Assistance of *Lanfranc's* and the Bishops Faction, who then swayed the People, and ruled by the help of an Army ever after. Whoever rightly considers this Story, cannot call it an Election.

* The Conqueror by his Will, gave *Normandy* to his Eldest Son *Robert*, and *England* to his Second Son *William*. It was a frequent and common practise of the great *Normans* that had great Estates both in *England* and *Normandy*, to leave their ancient Estates in *Normandy* to their Eldest Sons, and their Estates in *England* to their second or younger Sons; as *William Fitz-Osbern*, *Roger de Monte-Gomerico*, &c. *William* the Eldest Son of *William Fitz-Osbern* Earl of *Hereford*, &c. had *Breteuil* or *Breteville*, (from whence he was called *William de Breteville*) and all his Fathers Lands in *Normandy*, and his second Son *Roger* was Earl of *Hereford*, and had all his Lands in *England*. So *Robert de Belisno* Eldest Son to *Roger Montgomery* had *Belisno* Castle, and all the Lands and Castles which were his Fathers in *Normandy*; and his second Brother *Hugh* had the Earldoms of *Arundell*, and *Shrewsbury*, with all his Fathers Lands and Honours in *England*, which also *Robert* enjoyed after the death of his Brother *Hugh* without Issue.

After

A After the death of *Rufus*, *Florence of Worcester* only says, that *Henry*, his third Brother succeeded him; and that the day he was Crowned by *Maurice* Bishop of *London*, he gave great Liberties to the Church and Kingdom; and commanded that King *Edward's* Laws should be observed, with such Amendments as his Father had amended them. And further says, [3.] that very many great Men sent for Duke *Robert* over, and promised him the Crown and Kingdom: and coming, they did some of them adhere to him, and [4.] others, dissembling their Kindness and Affection, stayed with King *William* until they had an opportunity of shewing it. But the Bishops, the Common Soldiers, and *Engl'sh* stuck close to King *Henry*; by whose means he raised a very great Army, and were ready to fight for him; when they came to an Agreement by the Mediation of the Wise Men of both Parties.

Fol. 69. l. 9.
Flor. of Wor.
died 19 Hen. 1.

[3.] *Ibidem*,
lin. 27.

[4.] *Ibid m*,
lin. 41.

B *Eadmer* tells us, that most of the great Men either did, or were ready to revolt from King *Henry*; but *Anselm* Arch-Bishop of *Canterbury*, who had given him great Assistance in raising his Army, upon great Promises made, that all the Church-Affairs should be left to his direction and disposing, and that he would for ever after obey the Decrees and Commands of the Pope, procured the great Men to assemble; and then so wheedled and cajoled them and their Army, that he altered their Intentions: And it was from his Fidelity and Industry that *Henry* lost not the Kingdom.

Fol. 59. n. 10,
20, 30.

Eadmer was
Anselm's Chap-
lain at this
time.

C This King *Henry* was a plain right down Usurper, he had no pretence of Donation, no Testamentary Right from his Father; and therefore, as [5.] *Malmesbury* shews us more particularly, he was advanced by a Faction; there being only five great Men, *Robert Fitz-Haymon*, *Richard de Redvers*, *Roger Bigot*, *Henry* Earl of *Warwick*, and *Robert* Earl of *Mellent*, his Brother, all *Normans* that favoured him: and by the contrivance of *Henry* Earl of *Warwick* he was elected King. All others sent privately to Duke *Robert* to come and be their King, or openly reproached *Henry*. This was an excellent Election made by a Faction and an Army, and perhaps with a bawling multitude after them; and indeed, there could be no other Election than such an one as this, for *Rufus* was slain in *New Forest* on the 2d. of *August*, being *Thursday*; and *Henry* was Crowned on the 5th. of *August*, being *Sunday*: So that it was impossible for all that were, or ought to be concerned in such an Election, all the Kingdom over to have notice, meet, and dispatch that Business in two days time.

[5.] Fol. 88.
l. n. 20, 40.

Flor. W'gorn.
f. 6. 2. l. 27.

D These Historians lived at the very time these things were done. It is true he says in his own Charter, [6.] That he was Crowned King by the Common Council of the Barons of *England*. *Sciatis me misericordia Dei, & Communi Concilio Baronum Regni Angliæ ejusdem Regni Regem Coronatum esse*. And he must say this, or nothing; for no other Pretence or Title he could have; and there never was any other Usurper in his Circumstances, but must say so, or some other thing, to make out a Title. King *Stephen*, in his Charter of Liberties, says, He was elected, *A Clero & Populo*. King *John*, in his Charter of Fees of the Seal, affirmed himself right Heir to the Crown, when *Arthur* Duke of *Britain*, and his Sister *Eleanor*, Son and Daughter to his Elder Brother *Jeffrey*, were then living: and they

[6.] *Paris*,
Anno Dom.
1100. fol. 55.
lin. 43.

they were both vain Affirmations, as will appear in their several Stories.

[7.] *Paris*
died, *An.Dom.*
1259. *Bromp-*
ton, 1326.
Westminster,
1377.
Knigh-
ton,
1380.
[8.] *Col.* 2374.
n. 10.

Some later Historians than these, as [7.] *Matthew Paris*, who wrote above an hundred years after them. *Mat. Westminster*, and *Hen. de Knigh-ton*, and *Brompton*, who wrote at least two hundred and fifty years after them; all say he was elected: But only *Knigh-ton*, amongst them all, tells us the most considerable reason why *Robert*, his elder Brother, was rejected. [8.] *Robertus*, says he, *semper contrarius & adeo innaturalis extiterat Baronibus Regni Angliæ, quod plenario consensu & consilio totius Communitatis Regni IMPOSUERUNT EI ILLEGITIMITATEM, QUOD NON FUERAT PROCREATUS DE LEGITIMO THORO WILLIELMI CONQUESTORIS, UNDE UNANIMI assensu suo ipsum refutaverunt, & pro rege omnino recusaverunt & Hen. fratrem in Regem erexerunt.* *Robert* was always averse, and so harsh to the Barons of *England*, that they, by full Consent and Advice, voted him *Illegitimate*, because he was not begotten lawfully by *William the Conqueror*; and for that reason, by unanimous Assent, they refused him, and set up *Henry* his Brother to be their King. From this Passage of *Knigh-ton*, we see the Community, or Baronage of all *England*, fixed the Right of Succession in the Legitimate Right of Blood; and therefore this King, his two elder Brothers being dead without Issue, desired to secure the Succession unto his Lawful Issue by Right of Blood. To that end, [9.] all Freemen of *England* and *Normandy*, of what Order and Dignity soever, and of whatsoever Lord they held, or were Feudatories to, were forced to do Homage, and swear Fealty to his Son *William*, then but twelve years old.

[9.] *Malmf.*
fol. 93. a. lin.
36.

[1.] *Ibid.* fol.
99. a. n. 40.

[2.] *Ibidem.*

[3.] *Malmf. f.*
100. a. n. 40.

And in the [1.] twenty seventh of his Reign, he caused all the great Men of *England* (after the death of his Sons, *William* and *Richard*) to recognize *Maud* the Empress, his Daughter, Queen; to whom the [2.] only Lawful Succession was due from her Grandfather, Uncle, and Father that were Kings; and from her Mother many Generations.

In the thirty first of King *Henry*, [3.] he and his Daughter coming into *England*, at a great Meeting of the Nobility, or Parliament, at *Northampton*, those which before had sworn Fealty, renewed their Oaths to her; and those which had not done it before, then did it.

[4.] *Paris. f.*
61. n. 50. f. 62.
n. 10, 20.

[5.] *Ibid.* 61.
lin. ult 62 lin.
1. &c. *ibid.*
lin. 23.

[6.] *Ibid.* f.
63. n. 10.

[7.] *Ibid.* f.
73. n. 20.

Paris tells us, that the Clergy, and Great or Noble Men made Conditions with *Henry*; who promised them what is before related: and in that gave them satisfaction. But as all Usurpers ever did, so he changed his Mind; and his Canting Speech had no other effects than to enslave them: [4.] for with a feared and cauterized Conscience he had obtained the Kingdom, and usurped upon his Brother *Robert*, who had manifest Right; [5.] impudently violating the Laws, and Promises, by which he had drawn in all Men to serve him: and afterward, taking him Prisoner, caused his Eyes to be [6.] pulled out, and kept him in Prison [7.] twenty four years, until he died.

[8.] King

[8.] King Henry having thus provided for the Security of his Daughter Maud, being asked in his Sickness by Robert Duke of Gloucester, and the Noblemen that then were with him, about a Successor. *Filia* [9.] *omnem terram suam citra & ultra mare, Legitima & perenni successione adjudicavit.* Adjudged his Daughter his Lawful Successor in all his Territories.

[8.] *Malmf. Hist. Novel.* f. 100. b. n. 30.
[9.] *Ibid. bief.* 105. b. n. 40. *Omne Regnum Angl. simul & Ducatum Normanie.*
[1.] *Pitkin* in that year, Col. 505. n. 40. 30. King Stephen.

A [1.] *Radulphus de Diceto*, Dean of Saint Paul's, who died, *Anno Dom.* 1210. says, that *Hugh Bigot*, Steward of the Kings Household made speed out of Normandy (where the King died) into England, and made Oath before the Arch-Bishop of Canterbury; that King Henry upon his Death-bed, upon some differences which happened between him and his Daughter the Empress, did dis-inherit her, and made Stephen Earl of Boloign his Heir. Whereupon William Arch-Bishop of Canterbury giving too much credit to the words of the Steward;
B Confecrated Stephen Earl of Mortaigne King at Westminster. If this Story be true, he was Testamentary Heir, and had a Testamentary Right; and in that Right he was made King: But be this Story true or false, his Advancement to the Throne was as followeth.

C Notwithstanding, all the Nobility, and amongst them, King Stephen himself, had sworn Fealty to Maud the Empress; yet by the Interest of his Brother [2.] Henry Bishop of Winchester, and the Popes Legat, (without which he could have done nothing) he was made King: he brought off Roger Bishop of Salisbury, a great and powerful Prelat; also William de Pont-Arch, Keeper of King Henry's Treasury, which was [3.] 100000 l. in Money. And by his own Dexterity, the Artifice of his Brother, and Roger Bishop of Salisbury, and the advantage of this Money, he enclined the minds of the Noblemen much towards him, and to secure himself raised an
D Army mostly of Flemings and Britains. At his [4.] Coronation were only three Bishops, the Arch-Bishop of Canterbury, the Bishops of Winchester and Salisbury, no Abbots, and few Noblemen.

[2.] *Malmf. Hist. Novel.* f. 101. a. n. 10.
[3.] *Ibid. n.* 40. 50.
[4.] *Ibidem,* n. 20.
[5.] *Ibidem,* 101. b. n. 10.

E I think this looks not like an Election; [5.] yet he in his Charter of Liberties, which he chiefly granted to the Church, says, he was elected by the Assent of the Clergy and Laity, and confirmed by the Pope; though in his Charter of Priviledges to Westminster-Abby, he says, that his Grandfather, the Conqueror, and his Children were Adoptive Heirs of Edward the Confessor.

F *Malmsbury* recites the whole Charter, and although King Stephen says there, of himself, *Ego Stephanus Dei Gracia, assensu Cleri, & Populi in Regem Anglia Electus, &c.* I Stephen by the Grace of God, elected King of England by the Clergy and People. Yet the Historian, within two Lines after the Recital of the Charter, hath this Passage, wherein he affirms, Stephen came not lawfully to the Crown; * *Liceat mihi pace Mansuetissimi hominis, verum non occulere: Qui si legitime fuisset Regnum ingressus, & in eo administrando, credulas aures malevolorum susurris, non exhibuisset, parum ei profecto ad Regia personae decorem defuisset:* By the leave of a most mild Man, I my justly discover Truth. If he had lawfully possessed the Kingdom, and in his Government had not listned to the Whispers of Evil Men, as to the Comelinefs of his Person, he might have been a King.

* *Ibid. n. 40.* lin. 44.

[6.] *Ibidem*,
105. b. n. 20,
30, 40.
Malmesbury
says he was
present in this
Council.
Ibid. lin. 26.
Maud the
Empress.
[7.] *Ibid.* f.
106. a. lin. 1,
2, 3.
[8.] *Ibid.* f.
107. n. 10, 20,
30, 40.
[9.] *Ibid.* f.
108. a. n. 30,
40, 50.
Hen. 2d.
[1.] *Gervas.*
Dorob. Col.
1373. n. 10.
Paris, f. 86.
n. 10.
Hoveden, f.
281. a. lin. 21.

[2.] *Fol.* 246.
n. 10. *Anno*
Dom. 1153.
This Accord
was made at
Wallingford,
by the dili-
gence of
Arch-Bishop
Theobald and
Bishops of the
Kingdom.

[3.] *Ibid.* n.
30. *Anno Dom.*
1154.
Hen. 2d.

Afterwards, Stephen using the Bishops roughly, lost his Brother Henry's favour; who by his Legantine Power, [6.] called a Council of the Clergy at Winchester, to consult of the Peace of the Kingdom: Where they conclude, that the Right of chusing and Ordaining Kings chiefly belonged to them. And therefore, having first called upon God, they chose Maud the Empress Queen. [7.] *Ad Cleri jus potissimum spectat principem eligere & ordinare, invocata itaque in auxilium Divinitate, filiam Regis, in Angliæ Normanniæque Dominam eligimus, &c.*

But not long after, [8.] being displeased with Maud, he entred into a Confederacy against her; and, [9.] as Legat, called another Council at Westminster, in which was read the Popes Bull in favour of Stephen; who was then advanced to the Throne again. And the Kingdom being wasted and destroyed with continual Wars, [1.] the Arch-Bishop, this Legat, and the Bishops mediate a Peace between Stephen and Henry Duke of Anjou, Son to the Empress: by which it was agreed, that Stephen should adopt Henry his Son, who, after his death, should enjoy the Crown, and Stephen quietly to wear it during his Life, &c.

Which Agreement is most fully and clearly related by Matthew of Westminster: [2.] *Rex Stephanus omni herede viduatus, præter solummodo Ducem Henricum, recognovit in conventu Episcoporum & aliorum de Regno optimatum, quod Dux Henricus jus hereditarium in Regnum Angliæ habebat, & Dux benigne concessit, ut Rex Stephanus tota vita sua suum Regnum pacifice possideret. Ita tamen confirmatum est, quod ipse Rex & Episcopi tunc presentes cum ceteris Regni optimatibus jurarent, quod Dux Henricus post mortem Regis, si illum superviveret, Regnum sine aliqua contradictione obtineret:* That is, King Stephen not having an Heir, except only Duke Henry, did acknowledge in an Assembly of the Bishops and other Chief Men of the Kingdom, That Duke Henry had the Hereditary Right to the Kingdom of England; and the Duke kindly granted that King Stephen should, during his Life, peaceably enjoy his Kingdom. The Agreement was so confirmed, that the King himself, and the Bishops then present, with the rest of the best Men of the Kingdom swore, that Duke Henry, after the death of the King, if he should out-live him, should enjoy the Kingdom without all contradiction.

This Accord afforded Quiet and Tranquility both to Henry, and the Nation, with certain Confidence of enjoying the Kingdom after the death of Stephen; which he did. But as to his Right and Title, it added nothing to that, it being Hereditary: for he was acknowledged the true Heir by his Adversary Stephen, in the presence of the Bishops, and the best Men of the Kingdom: who all likewise acknowledged it, by owning the Accord, and swearing to observe it.

On the [3.] 24th. of October, the year following, King Stephen died, and on the 19th. of December following, Henry was Crowned at Westminster by Theobald Arch-Bishop of Canterbury. And Maud the Empress, being satisfied with the Enthroning of her Son, quitted her Pretensions.

King.

King *Henry II.* dying in *France*, July 7. 1189. [4.] his eldest Son and Heir, *Richard*, was by *Walter Archoithop* of *Roven* girt with the Sword of the Dukedom of *Normandy*, on the 20th. of the same Month, in the presence of the Bishops, Earls, and Barons of *Normandy*. And before his coming into *England*, [5.] every Freeman of the whole Kingdom, by the Command of his Mother *Alienor*, swore Fealty to *Richard*, King of *England*, Son of King *Henry*, as to their Liege Lord, against all Men.

- A Afterwards [6.] coming to *London*, *Congregata ibi Archiepiscopi, Episcopi, Comitibus, Baronibus, et copiosa Milium multitudo, in occursum ejus, quorum Consilio, et assensu, ipse Dux*, 3. Nonas Septembris, *Consecratus et Coronatus est apud Westmonasterium in Regem Angliæ à Baldwino Cantuariensi Archiepiscopo, &c.* The Archbishops, Bishops, Earls, Barons, and a copious multitude of Knights met him: by whose Advice and Assent, the [7.] Duke was Crowned King of *England* by *Baldwin* Archbishop of *Canterbury*, many other Bishops there named assisting.
- B *Et omnibus fere Abbatibus, et Prioribus, et Comitibus, et Baronibus Angliæ assistantibus.* Almost all the Abbots, Priors, Earls and Barons of *England* being Spectators.

Ralph de Diceto, then Dean of *St. Paul's, London*, who in the Vacancy of that Church and Bishoprick, [8.] supplied the Office of the Bishop at King *Richard's* Coronation, hath this passage, *Comes itaque Pictavorum Richardus HEREDITARIO JURE PRÆMOVENDUS in Regem, post tam Cleri, quam Populi solemnem et debitam Electionem involutus est triplici sacramento, &c.* Therefore *Richard*, Earl of *Poitou*, being by Hereditary Right to be made King, after the solemn and due Election, as well of the Clergy as the Laity, swore to three things. [9.] *scilicet, Quod opem impendat pro viribus, ut Ecclesia Dei, populusque Christianus, veram pacem obtineant, quod interdicit omnibus Rapacitatem, quod in judiciis equitatem præcipiet, & misericordiam.* That is to say, That he would use his utmost power that the Church of God, and Christian People might enjoy true Peace: That he would interdict Rapine to all Men:

- C That he would command Mercy and Equity, to be done in Judgments.
- D What can this solemn and due Election signify here? What can it mean further, than that *Richard* being King by Hereditary Right, was so owned and recognized by the Clergy and Laity?

John, in his Brother *Richard's* Life-time, had a mind to be King; and taking advantage of his Absence in the *Holy Land*, and his Imprisonment in *Germany*, practised with the Nobility and *Londoners* to that purpose. The lastswore faithful Service to their Lord, King *Richard*, and to his Heirs; and if he should die without Issue, *Utrique perent Comitem Johannem fratrem Richardi Regis in Regem & Dominum.* That they would receive Earl *John*, the Brother of King *Richard*, for their King and Lord: and swore Fealty to him against all Men, saving their Fealty to his Brother King *Richard*.

- E Two years afterward, confederating with the King of *France* against his Brother, and being assisted by him, he returned into *England*, and brought many Strangers with him: and coming to *London*, demanded the Kingdom of the Archbishop of *Roven*, who was then Justiciary and the other Justiciaries of *England*, & *Fidelitates Hominum Angliæ*: affirming the King of *England*, his Brother, was dead. But not believing him, they and the other great Men of the Kingdom rejected him.

Then, swelling with Fury, he fortified his Castles and Places of Strength, and seized the Crown-Lands. Many came in unto him; but being deceived, they were punished according to their deserts.

- F Then, swelling with Fury, he fortified his Castles and Places of Strength, and seized the Crown-Lands. Many came in unto him; but being deceived, they were punished according to their deserts.

[4.] *Herod. f. 372. b. n. 40. 50. f. 373. a. lin 7.*

[5.] *Ibid. n. 50. & b. lin. 7. Quod fidem portabit Regi Angliæ Richardo. Regi Hen. filio, &c.*
[6.] *Ibid. f. 374. n. 10.*

[7.] *Of Normandy.*

[8.] *Ral. de Diceto. Col. 647. n. 40, 50.*

[9.] *Ibidem.*

Richard the First's Oath

See the word *Electus* in the Glossary.

Herod. f. 398 b. n. 50. 40. 50. &c. f. 399. b. n. 40. lin. Dom. 1191.

Ibid. f. 12. a. n. 40. 50. Anno Dom. 1193.

Ibid. b. lin. 1 & 5.

[9.] *Ibid.* f.
417. b. n. 30.
Anno Dom.
1191.

[1.] *Ibid.* f.
418. a. n. 40.
[2.] *Ibidem.*
b. 11a. 6.

[3.] *Ibidem.*
n. 20.

[4.] *Ibid.* f.
418. a. n. 20.
Anno Dom.
1195. 6. Ric.

[5.] *Ibid.* f.
449. b. lin 37.

[6.] *Fol.* 440.
b. n. 10. King
Richard died,
Apr. 6. 1199.

[7.] *Ibidem.*
n. 40.

[8.] *Homines*
Regni could be
no other, see-
ing Fealty and
Homage was
due only from
such as held
Lands sub; et
to that Ser-
vice.

[9.] *Ibidem.*
n. 40.

[4.] *Ibidem.*
n. 50.

* *F.* 196. n. 20.

And for these and other [9.] Treasons committed the year following; as combining with the King of France, and offering great Sums of Money to the Emperor to keep King Richard in Prison, and making new [1.] Disturbances in the Nation. [2.] *Per Commune Consilium Regni, Definitum est, quod Comes Johannes dissisteretur de omnibus Tenementis suis in Anglia.* By the Common Council of the Kingdom it was decreed he should be disseized of all he held of the King in England. And presently all his [3.] Castles were besieged and taken from him.

Yet for all this, the next year King Richard [4.] pardoned his Brother John, and restored to him the Earldom of Moreton, or Mortaigne, the Honour of Eye, and Earldom of Gloucester, except the Castles; and for his other Earldoms and Lands, allowed him yearly eight thousand Pounds of Anjou-Money.

And in the last year of his Reign [5.] *Cum Rex de vita desperaret, divisit Johanni fratri suo Regnum Angliæ, & omnes alias terras suas, & fecit fieri prædicto Johanni fidelitates ab illis qui aderant, & precepit ut traderentur ei Castella sua, & tres partes thesauri sui.* When the King despaired of Life, he devised to his Brother John the Kingdom of England, and all other his Lands, and made all present swear Fealty to him, and commanded that his Castles and three parts of his Treasure should be delivered to him.

Richard being dead, [6.] John stayed in Normandy (where, by Walter Archbishop of Rouen, he was girt with a Sword of that Duchy, April 25: on St. Mark's day) and sent Hubert Archbishop of Canterbury, and the Popes Legat, and William Marshal Earl of Strigwil, into England, to keep the Peace; together with Jeffrey Fitz Peter, Justiciary of England, and other Barons of the Kingdom. [7.] *Qui fecerunt homines regni tam de Civitatibus, quam de Burgh, & Comites, & Barones, & libere tenentes jurare fidelitatem & pacem Johanni Normannorum Duci filii Henrici Regis, filii Matildis Imperatricis contra omnes homines.* Who made the [8.] Homagers of England, as well of Cities, as Burroughs, and Earls, Barons, and free Tenants, to swear Fealty and Peace to John Duke of Normandy, the Son of King Henry, the Son of Matild the Empress, against all Men.

[9.] Notwithstanding this, all the Bishops, Earls, and Barons which had Castles, Manned, Victualled, and stored them with Arms. But Hubert the Archbishop, William Marshal, and Jeffrey Fitz Peter, Justiciary of England, met at Northampton, and called before them those which they most doubted: David, Brother to the King of Scots, Richard Earl of Clare, Ranulph Earl of Chester, William Earl of Tutesbury, and Walter Earl of Warwick, Roger Constable of Chester, William de Mowbray, and many other Earls and Barons; to whom they promised and engaged, that John Duke of Normandy should restore to every Man his Right, if they would keep Faith and Peace with him [4.] *sub hac igitur Conventionione supradicti Comites &c.* According to this Agreement, the said Earls and Barons swore Fealty, and faithful Service to John Duke of Normandy, against all Men. This was done while he was in Normandy.

Mat. Paris in the relation of this particular Matter differs somewhat from Hoveden; he says, * That when Archbishop Hubert, William Marshal, and Jeffrey Fitz Peter, and other great Men of the Kingdom, called before them at Northampton all the chief Nobility they suspected, or most doubted of; *Fecerunt illis Fidem, quod comes Johannes, Jura sua redderet Univerfis:* They promised Earl John should restore to every one their Rights. *Sub tali igitur Conventionione, Comites, et Barones, & omni memorato fidelitatem contra omnes homines Juraverunt.* Therefore upon such Condition or Agreement, the Earls and Barons swore Fidelity to the before-mentioned Earl, against all Men. These

These Rights (if the Historian had noted them) in all probability were no other than their own large Demands, which they called so; and whatever they were, Earl John was forced to grant them, for at that time he was an Usurper, and the Barons, or major part of them, always Bargained and made Terms with Usurpers to their own Advantage, and Disadvantage to the Crown, as the Constitution of the Government was then, as they had done with Henry the First, and King Stephen.

A He might have been in as much danger of being laid aside in England, as in the Dominions beyond the Sea, if this promise had not been made: For the * Princes of Anjou, Turain, and Main, adhered to Arthur as their Liege Lord, saying it was the Law and Cust. m of those Countries, That Arthur the Son of the elder Brother, should succeed his Uncle in the Patrimony and Inheritance due to him; which his Father Jeoffry should have enjoyed, if he had out-lived King Richard.

* Ibid. n. 30. 40.

B And John de Curci an English Norman, was * thrown out of his Earldom of Ulster in Ireland, and judged to perpetual Imprisonment. Quia fuit Rebells Johanni Regi Anglie, et noluit sibi facere Homagium, et trasuperaverit eum de Morte Arthuri Legitimi Heredis; Because he was a Rebel to King John, and would not do Homage to him, and charged him with the Death of Arthur the Lawful Heir.

* Annal. Hilbern A. D. 1204. Camb Britan. f. 797.

[5] On the 25th of May following, Duke John crossed the Seas from Normandy into England, and the next day came to London; and there were Convened in expectation of him, Hubert Archbishop of Canterbury, John Arch-Bishop of Dublin, William Bishop of London, Gilbert of Rochester, John of Norwich, Hugh of Lincoln, Eustace of Ely, Godfrid of Winchester, Henry of Exeter, S. frid of Chichester, Jeffrey of Coventry, Savaric of Bath, Herbert of Salisbury, Philip of Durham, Roger of St. Andrews in Scotland, Henry of Landaff, Bishops: Robert Earl of Leicester, Richard Earl of Clare, William of Tutesbury, Hamlin de Warenn, William of Salisbury, William de Strigvil, Walter of Warwick, Roger Bigot, William de Arundel, Ranulph de Cestre, Earls; and many Barons. And then Hubert Arch. Bishop of Canterbury Consecrated and Crowned the said John Duke of Normandy, King of England, in the Church of St. Peter at Westminster, on the 27th of May, being Ascension Day.

[5.] Ibid. f. 451. a. n. 20.

Not one word here of any Election by, but only a Submission from the Barons Spiritual and Temporal, to King John; and a Recognition, that he was their King. And all this related by How den, in all probability an Eye-witness of this Transaction.

E Indeed Matthew Paris, who died Anno Dom. 1259. was then either unborn, or so young as not with Judgment to take sufficient notice of this Affair, relates it thus; [6] Congregatis in adventu ejus Archiepiscopis, Episcopis, Comitibus & Baronibus, atque aliis omnibus, qui ejus Coronationi interesse debuerant; Archiepiscopus stans in medio omnium, dixit, audite universi, noverit discretio vestra, quod nullus præ a ratione alii succedere habet Regnum, nisi ab universis: Regni unanimiter invocata Spiritus Gratia electus, & secundum meritum suorum eminentiam præelectus, ad exemplum & similitudinem Saul primi Regis inuncti, quem proposuit Dominus populo suo, non Regis filium, nec de Regali stirpe præcreatum, similiter post eum David Jesse filium, Hunc quia strenuum, & aptum Dignitati Regie; illum quia sanctum & humilem, ut sic quia cunctos in regno supereminet strenuitate, omnibus præsit, & potestate & regimine, verum si quis ex stirpe Regis defuncti aliis prepolleret, pronius & promptus, in electionem ejus est consentiendum. Hæc idcirco diximus, pro in-

King Richard died, Anno Dom. 1199. [6.] Paris. f. 127. n. 20.

chard

[] *Idem.*
" 3-4.

Note here
Succession ha-
reditaria eli-
gere, which
can signifie no-
thing, but to
recognize and
acknowledge
him King by
Hereditary
Succession.

The Reason
why the Arch-
bishop pr-
tended this
was an Ele-
ctiv. Kingdom

chardi j m defuncti, qui hærede caruit ab eo egrediente, qui providus & strenuus & manifeste nobilis, quem nos, invocata Spiritus Sancti Gratia, ratione tam meritorum, quam sanguinis Regii, unanimiter eligimus universi, [7] nec ausi erant alii super his adhuc ambigere, scientes quod Archiepiscopus sine causa hoc non sic diffiniverat, verum Comes Johannes & omnes hoc acceptabant, ipsumque Comitem in Regem eligentes & assumentes exclamant, dicentes, vivat Rex; Interrogatus autem postea Archiepiscopus Hubertus, quare hæc dixisset, respondet se prasagamente conjecturare, & quibusdam Oraculis Edoctum & Certificatum fuisse, quod ipse Johannes Regum & Coronam Angliæ faret aliquando corrupturus, & in magnam confusionem præcipitatus, & ne haberet liberas habenas hoc faciendi, ipsum electione, non successionem hereditaria, Elegi debere affirmabat. That is,

The Arch-Bishops, Bishops, Earls, and Barons, and all others (Officers, probably, required to be there) which ought to be present at his Coronation, meeting at London. The Arch-Bishop standing in the middle of them, said, 'Hear all of you, your Dis-
'cretion shall know, that no Man hath Right to succeed in the King-
'dom, unless after seeking God, he be unanimously chosen by the Uni-
'versity of the Kingdom, (that is, those that are here said to meet at
'London.) And according to the Eminency of his Endowments, pre-ele-
'cted, according to the Example and Similitude of *Saul*, the first Anoin-
'ted King, whom God set over his People; not the Son of a King, or
'of the Royal Line. Likewise after him, *David* the Son of *Jesse*.
'This because stout and fit for Royal Dignity: the other because holy
'and humble. That so he which exceeded all Men of the Kingdom
'in Strength, or Prowess, should be set over all in Power, and Govern-
'ment. But if any of the Progeny of the dead King did excel others,
'they ought more readily to consent to the Election of him. These
'things we have therefore said in the behalf of the famous Earl *John*,
'who is here present, the Brother of our most illustrious dead King *Richard*,
'that died without Issue of his Body; who is Provident, Stout,
'and manifestly Noble, whom we, having invoked the Grace of the
Holy Spirit, have all of us unanimously chosen. Nor dare any others
'so much as doubt of these things, knowing the Archbishop had not
'thus decreed this Matter without Cause. But Earl *John*, and all
there acquiesced in what he had said; and chusing or acknowledg-
ing; and receiving him for their King, shouted, saying, *Let the
King live*. But Archbishop *Hubert* being asked afterward, why he
said these things? Answered, 'That he guessed, and was taught, and
'ascertained by certain Oracles, that *John* would bring the Kingdom
'and Crown into great Confusion: And therefore, lest he might have
'too much Liberty in doing it, he affirmed he ought to come in by
'Election, and not by Hereditary Succession: and so was Crowned as
before rehearsed.

This Learned Doctrine and Preachment of the Archbishop asserts not any Right of Election in the Convention of Bishops, Earls, Barons, and others required to be at the Coronation; but by his own Answer, when he was asked why he said these things, it clearly discovers a Design only, and Artifice in the Archbishop, to cause them to set up, and make *John* King: In which also he denies any such right of Election.

Hoveden hath none of, nor doth mention this Harangue; and therefore it seems rather to be an invention of *Matthew Paris*, than a Sermon of the Archbishop. Historians commonly make Speeches for other Men they write of. *Brompton* takes no notice of it; all he says

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says is, that [8.] *Johannes Lundoniam veniens in Festo ascensionis Domini, VI. Kalend. Junii, Anno Dom. 1199. ab Huberto Cantuariensi Archiepiscopo in Ecclesia B. Petri Westmonasterii inungitur & in Regem Angliæ coronatur, assistente Prelatorum, Comitum, Baronum, & aliorum Nobilium multitudine infinita.* John coming to London on Ascension-Day, the 27th. of June, 1199. was Anointed and Crowned King of England by Hubert Arch-Bishop of Canterbury, in St. Peter's Church in Westminster, an infinite multitude of Bishops, Earls, Barons, and other Noblemen assisting him. Not one word here, or in Hoveden, or Paris, of the ordinary People.

[8.] Col. 1281.
n. 40. 50.

And this Doctrine of the Arch-Bishop concerning the Election of Kings, if meant according to the Modern Understanding of it, was then new; for Gervase, a Monk of Canterbury, in the year 1122. speaking of the Coronation of Henry the First, says, It was manifest, and known almost to all Men, that the Kings of England were only obliged and bound to God for the Possession of the Kingdom, and to the Church of Canterbury for their Coronation. [9.] *Manifestum est autem & omnibus fere notum, Reges Angliæ soli Deo obligari, & teneri ex ipsius regni adeptione, & Ecclesie Cantuariensi ex Coronatione.*

[9.] Col. 1338.
n. 30.

King John doth say in a [1.] Charter dated the first year of his Reign, that he came to the Crown, *jure hereditario, & mediante tam Cleri, quam populi unanimi consensu, & favore*: By Right of Inheritance, and by unanimous Consent and Favour, as well of the Clergy as Laity. This unanimous Consent of the Clergy and Laity was rather their Acknowledgment and Submission than any thing else: for, according to Hoveden's Relation of his coming to the Crown, which is the most exact extant, *They submitted and swore Fealty to him against all Men before he came into England, some time before his Coronation.* Nor could it be true that he had an Hereditary Right; for Arthur Duke of Britain, Son and Heir to his elder Brother Jeffrey, and his Sister Eleanor, was then living: unless he had regard to the Donation of his Brother Richard, and so esteemed himself a Testamentary Heir.

[1.] Moderat.
Feod. Magn.
Sigilli.

After the death of King John, Henry the Third, his eldest Son, and Heir, by the Assistance of the Loyal Barons, was Crowned King, notwithstanding the Barons which had made War against King John, when they were reduced to great Streights, [2.] called out of France, Lewes, the King's Son; to whom [3.] they, with the Londoners, swore Fealty, and advanced him to the Throne, and adhered to him against their own Prince; [4.] until by force they were reduced, and he driven out of the Kingdom. This Treasonable calling in of Lewes, some that are pertinacious in the fancy of Election, will have it to be one. [5.] Indeed King Henry the Third at this time had no good Hereditary Title; and therefore, *Johannes ex hac vita transmigravit, Henricum primogenitum suum regni constitutus heredem.* And this Donation of his Father, or his making him his Heir, was his best Title; for until that Eleanor, the Daughter of his Uncle Jeffrey, died, in the twenty fifth year of his Reign, he was not true Heir by Right of Blood. *Obiit Eleanora (saith Matthew Paris) filia Galfridi Comitum Britanniarum in clausura diuturna carceris sub arcta custodia reservata, fol. 574. n. 40. 25 H. 3. Anno Dom. 1241.*

Hen. 3d.
Paris, f. 289.
n. 10.

[2.] Ibid. 279.
n. 20.
[3.] Ibid. 282.
n. 10.

[4.] Ibid. 296.
n. 40. 297. n.
30. 299. n. 20.
[5.] Paris, f.
288. lin. 2.
Westmin f.
276. n. 40.

To

Edward the
First.

[6.] *Paris*, f.
488. n. 30, 40.

[7.] *Ibid.* f.
654. n. 20.

[8.] *Ibid.* f.
527. n. 40.
Anno Dom.
1240.

[9.] *Ibid.* f.
994. n. 50.

To Henry the Third succeeded his eldest Son Edward the First, though the *Lancastrians* said his second Son Edmund, commonly called *Crouch-Back*, was the eldest, and laid aside for his deformity; on whose Person was originally founded the great Contention between the two Royal Houses of York and Lancaster. But that he was really the eldest, there can be no pretence, however the *Lancastrians* imposed upon the People. For Edward was born [6.] June 16. 1239. and Edmund upon the [7.] 16th of January, 1245. being *Marcellus* his day, six years after. Edward, by that time he was a year old, was acknowledged the First-born of his Father, his Brother Edmund not then born. [8.] *Per idem tempus Rex Cives Londinenss, & quinque portuum custodes, & multos alios fecit jurare fidelitatem, & ligantiam Edwardo primogenito suo.* In the Letter from the Loyal, to the Rebellious Barons, he is styled the First-born of King Henry. [9.] *Richardus Dei gratia Rex Romanorum semper Augustus, & Edwardus illustris Regis Angliæ primogenitus, &c.* And very frequently *Matthew Paris*, who lived at this time, and was Historiographer to his Father, calls him his First-born. So that there can be no doubt in History, that he was the eldest Son; for King Henry the Third had only these two Sons, Edward and Edmund.

Edward the
Second.
Brief History
of Succession,
f. 6.

After the death of Edward the First, his Son Edward the Second succeeded him; and, as Men of purely Commonwealth-Principles tell us, he degenerating from so great a Father, the People grew weary of his Irregular Arbitrary Government; deposed him, and chose Edward his Son to Reign in his stead. A plain Argument, say they, of the Peoples Power in chusing their Kings, and of limiting and binding the Succession.

But whoever reads this Story, will not find the ordinary People had much, if any thing to do in this matter, further than as they were excited to Tumults and Railing at the Government, by many of the Popular Bishops and Barons; for they always have been, and ever will be, Instruments of Designing Men against the Government, if by remissness thereof, and easiness of Governors, they be permitted. This King was Deposed and Murdered by a wicked Confederacy and Rebellion of many Bishops and Barons. And there is nothing to justify this Rebellion, Deposition and Murther, in which our Anti-Monarchial Men instance so often as an Example to be followed, but the meer doing of it: And if a Fact be therefore lawful, only because it is done, we have no need of Laws, Lawyers, or Officers of Justice, to maintain, plead for, or defend it. The truth is, this King was not of so brisk a temper, as his Father, nor endowed with so much Courage: he was more soft and easie, and used too great and unseasonable Indulgence, to such as he permitted to guide his Affairs, and the Affairs of the Kingdom in his Name.

[1.] *Vid.*
Preamble to
the Ordinances
made by
an extorted
Commission
to certain Or-
dainers, dated
Mar. 16. 3 Ed.
2. but not
executed until
the fifth of
his Reign.
Ordinance,
13. 14. 16.
Rot. Parl.
5 Ed. 2. *Tho.*
Walsingham, f.
113. lin. 48.

From hence many Rebellious Barons, under pretence of the [1.] Honour of God and Holy Church, the Honour of the King and Realm, made Confederations to remove Evil Counsellors, reform the Court, and to force the King to let them name all Judges, the Chancellor, Treasurer, and other great Officers in Court, Gascoigne, Ireland, and Scotland.

Thomas

Thomas Duke of Lancaster, one of those Commissioners and Ordainers, was always the Head of these Confederacies, [1] who pretended great Affection to the King, to the common profit of the Realm, and great care to see these Ordinances, cited in the Margin, maintained in all Points, and many things amended in the King's Household, Court and Realm.

[1] Vid. Memoranda Parliamenti, Ed. 2. apud Lincoln.

- A At length this great Earl of Lancaster [2] behaved himself very indecently towards the King, and used him with much Scorn and Contempt; until at last, in the fifteenth of his Reign, he and many of his Confederates brake out into open Rebellion, at Burton upon Trent; and flying before the Kings Army Northward, was, with many others, taken at Burrough-bridge in Yorkshire: and being tried by his Peers, was adjudged to be Hanged, Drawn and Quartered: which Sentence was pardoned by the King, and he was only Beheaded. * The like
- B Sentence had Warren de Insula, William Toket, Thomas Maudut, Henry de Bradborn, William Fitz-William, and William Cheyne, the Lord Roger Clifford, the Lord John de Mounbray, the Lord Henry Tyes, the Lord Bartholomew de Badlesmere, and Joscelin de Invilla; most of them Barons. *Propter Roberias & Felonias & resistentiam quam fecerunt contra Regem ad villam de Burton, Occidentes Regis familiares, & Regis transitum prohibentes, & partem villa predicta comburentes, &c.* For Robberies and Felonies, and the Resistance they made
- C against the King at the Town of Burton; killing the King's Friends and Servants, and burning part of the Town upon their Retreat.

[2] Walsingham, f. 116. n. 20, 30, 40.

* Ibidem.

- The Ordinances before-mentioned, in number forty one, were revoked, and the Confederations and Tumultuous Barons and their Actions censured, in a [3] Parliament holden at York, 15 Edw. 2. The Ordinances were revoked upon Examination of them before the Prelates, Earls, Barons, (amongst which were all the Ordainers then alive) and the Commons of the Realm: For that, by the things which
- D were ordained, *The King's Royal Power was restrained in many things, against the due Greatness of his Seigniorie Royal, and contrary to the State of the Crown. And also, for that in times past, by such Ordinances and* [4] *Provisions made by Subjects over the Power Royal of the Ancestors of the Lord the King, Troubles and Wars came upon the Realm, by which the Nation was in danger, and it was accorded and established* in the said Parliament, by the Lord the King, and by the said Prelates,
- E Earls and Barons, and all the Commonalty of the Realm at that Parliament assembled; *That all those things by the Ordainers ordained, and contained in the said Ordinances from henceforth, for the time to come, should cease, and lose their Force, Vertue and Effect for ever. And that from hence forward, in no time, no manner of Ordinances or Provisions made by the Subjects of the Lord the King, or his Heirs, by any Power or Commission whatsoever, over and upon the Power Royal of the said Lord the King, or his Heirs, or against the State of the Crown, shall be*
- F *of no value or force. But the things which shall be established for the Estate of the King and his Heirs, and for the Estate of the Realm and People, may be treated, accorded and established in Parliament, by the King, and by the Assent of the Prelates, Earls, Barons, and Commonalty of the Realm.*

[3] Great Stat. Rol. ab Hen. 3. ad 21 Ed. 3. m. 31. Bib. Cott. Claudius, D. 2. f. 232. a.

[4] Oxford Provisions, 42 Hen. 3.

[4] Walsingham, f. 115. n. 40.

[5] Ibid. f. 119 n. 20.

[6] Ibid. f. 120 n. 20.

[7] Ibid. n. 40.

[8] Ibid. f. 121 n. 30.

[9] Ibid. n. 40. & Cl. 20 Ed. 3. m. 11. Dorf.

[1] Walsingham, ibid. n. 40.

[2] Cl. 19 Ed. 2. m. 2.

[3] F. 122. n. 10. She was generally reported to be a vile Woman, cruel and unchaste.

[4] Ibid. f. 125 lin. 49.

[5] Ibid. f. 123 n. 20, 30.

[6] Ibid. f. 125 n. 30.
[7] Ibid. n. 50.

Roger de Mortuo-Mari, Lord of Wigmore, [4] submitted himself to the King, which much weakened the Barons Forces before the Engagement at Burton, and was sent to the Tower of London; from whence he made his Escape after two Years Imprisonment, in the Seventeenth of the King's Reign, and went over Sea to the King of France; who at this time required the King of England to do him [5] Homage for Gascoign and other Territories he held of him in France. But he delaying to do it, and excusing himself by [6] Messengers, who prevailed not, the King of France, with an [7] Army, seized Gascoign, and the County of Ponthieu: yet by the means of Edmund of Woodstock, the King's Brother, and other English Noblemen then in France, a Truce was made with the King of France for a certain time, until a Peace might be treated of. [8] The Year following, the Bishops of Winchester and Norwich, with John de Britannia Earl of Richmond, were employed to that purpose: and after much disceptation about it, they received a Form of Peace from the King of France. And at length the [9] Queen, by Advice given by the Bishops and Great Men to the King, was sent to her Brother, the King of France, for making up, and Confirmation of the Peace. [1] And it was accorded, that King Edward should give the Prince, his Son, the Duchy of Aquitain and County of Ponthieu, that he should go over into France, and do Homage for them; which he did accordingly.

But the Prince being in France with his Mother, she had no mind to return. [2] The King sent divers Letters to his Son Edward, and his Queen Isabel; expostulating the Cause of their stay in France against his Will, and the Confederation they made there with Roger Mortimer, his Enemy and Rebel, and others.

Walsingham says, [3] Some affirmed she stayed there against her Will, *Alii vero asserbant quod voluntarie propter nimiam familiaritatem tunc contractam inter Reginam & Rogerum de Mortuo mari sine quo & aliis Nobilibus de Anglia profugatis noluit dicta Regina redire, & maxime in odium dispensatorum.* But others affirmed she stayed voluntarily, by reason of the too great Familiarity she had contracted with Earl Roger Mortimer, [4] without whose Advice she did nothing; and without whom, and the other Noble-men that had fled out of England, she would not return; and especially for the Hatred she bare towards the Spencers; proud, ambitious, haughty and covetous Men, by whom the King was too much swayed in the Management of his Affairs; which might give a dissatisfaction to the Nobility, though not warrant their Actions.

The next [5] year, having married the Prince (not then fourteen years old) to the Earl of Hanault's Daughter, who furnished her with Shipping, and two thousand seven hundred and fifty Men, led by his Brother John, she, with Edmund Earl of Kent, and Roger Mortimer Lord of Wigmore, and many other Great Men who had fled out of England, landed at Harwich; to whom the Earl Marshal, the Earl of Leicester, and other Barons and Knights of those Parts, and almost all the Bishops did adhere: and proceeding, her Army daily increased; so as at last she took her Husband, the [6] King, Prisoner, and put to death both the Spencers; the Younger without [7] Hearing or

or Answering. The imprisoned King was carried and removed from place to place, but at last fixed at Berkeley-Castle in Gloucester-shire, under the Guard of Thomas Berkeley and John Maltravers, who had allowed [1] an hundred Shillings a day for his Expences and Keeping. The Queen never would see him during his Imprisonment, [2] *Regina misit sibi Indumenta delicata, & Literas blandientes, sed tamen ipsum videre nolebat, fingens quod communitas Regni non permisit.*

A The Queen sent him gay Cloaths and flattering Letters, but would not see him, feigning the Community of the Kingdom would not permit her.

He was [3] made Prisoner, November 16. and the Morrow after Twelfth-day, all the Nobility of the Kingdom, being summoned to Parliament, met at London, and judged the King unfit to rule, and for several Reasons to be deposed; and his Son, Prince Edward, to be chosen King. [4] *Convenit Londiniis tota Nobilitas Regni citata per prius ad Parliamentum tenendum ibidem in crastino Epiphaniæ, ubi cuncti censuerunt Regem indignum Diademate, & propter plures Articulos deponendum, & Edwardum filium ejus primogenitum in Regem unanimiter eligendum, quod etiam consequenter factum est.* Of which

B Transaction, when the Queen had notice, she was full of Grief outwardly (*ut foris apparuit*) saith Walsingham: But the Prince, affected with this outward Passion of his Mother, as young as he was, would not accept of this Title (whether out of his own Apprehension of things, or by grave and mature Advice, which is most probable.) Et [5] *Juravit quod invito patre nunquam susceperet coronam Regni:*

C And swore, that without his Father's Consent, he would never take upon him the Crown of the Kingdom. Whereupon, several [6] Messengers being dispatched to the King, then Prisoner at Kenelworth-Castle, who told him what had been done and concluded of, and diligently required him to resign his Royal Dignity and Crown, and permit his Son to reign in his stead.

D He was much disturbed with the Message; and said, Since it could be no otherwise, he thanked them for chusing his First-born Son; making his Resignation, and delivering up the Royal Ensigns, or Tokens of Sovereignty.

E This done, Edward the Third directs his Writs to the Sheriffs of the several Counties, for preserving and keeping the Peace; with this Preamble.

Rex [7] *Viccom. Ebor. Salutem. Quia Dominus Edwardus nuper Rex Angliæ Pater Noster de Communi Consilio & assensu Prelator. Com. Baron. & alior. Magnat. necnon Communitat. totius Regni prædict. SPONTANEA VOLUNTATE se amovit a Regimine dicti Regni VOLENS & CONCEDENS quod nos tanquam ipsius primogenitus & HÆRES ipsius regni gubernationem & regimen assumemus, nosque ipsius patris nostri beneplacito in hac parte de consilio & avisamento Prelator. Com. Baron. Magnat. & Comit. prædict. annuentes Gubernacula suscepimus dicti regni; & fidelitates & Homag. ipsorum Prelator. & Magnat. recepimus ut est moris. Teste Rege apud Westmonasterium, 29 Jan.*

[1] Cl. Ed. 3. Part. 1. m. 3. Dorl.
[2] Walsing. f. 127. lin. 36.

The Community could be no other than the Bishops and Lords which were here meant by that word in this place.

[3] Ibid. n. 40. Knighton says, Octabis Epiphaniæ, Eight days after Twelfth-Day. Col. 2549. n. 50.

[4] Walsingh. f. 126. n. 20, 30.

Ibid. lin. 39.

[5] Ibid. n. 40.

[6] Ibidem.

Edward the Third.

[7] Cl. 1. Ed. 3. Part. 1. m. 28. Walsingham, f. 126. n. 50.

Note de Consilio & Avisamento, not Electione, &c.

' The King to the Sheriff of *Yorkshire*, Greeting. Because *Edward*, late King of *England*, our Father, by Common Council and Assent of Prelates, Earls, Barons, and other Great Men, and also of the Communities of the said Kingdom, of his own *Free Will*, removed himself from the Government of the said Kingdom: *Willing* and *Granting*, that We, as his First-born, and Heir of his Kingdom, should take upon us the Rule and Government. And We yielding to the good Pleasure of our Father, by the Counsell and Advice-ment of the Prelates, Earls, Barons, Great Men, and Communities afore-*said*, have taken upon Us the Government of the said Kingdom, and received the Fealties and Homages of the said Prelates and Great Men according to Custom. Witness the King at *Westminster*, Jan. 29.

A

Nine days after he was invested with Kingship; and not long after that King *Edward* the Second was murdered in *Berkeley* Castle.

B

Any Man, though but of an indifferent Capacity, that seriously considers the Story of this unfortunate Prince, will easily perceive he was deposed by notorious Rebellion, raised by Factionous Bishops and Tumultuous Barons; and not without great suspicion of an intended Usurpation by *Thomas* Earl of *Lancaster*: and may easily see through the Contrivance of the Queen and *Mortimer* afterwards: and from thence cannot but judge it to have been a Design of wicked popular Barons, and not the Action, much less the Choice of the People.

C

Rot. Parl.
4 Ed. 3. n. 1.

In the Fourth of *Edward* the Third, *Roger Mortimer*, Earl of *March*, was impeached in Parliament for divers Felonies and Treasons; for assuming to himself Royal Power, making Dissention between King *Edward* the Second and his Queen, and for murdering of him, and many other great Treasons: and adjudged to be Drawn and Hanged, and was executed accordingly. And the Earl Marshal was commanded to do the Execution; and the Mayor, Aldermen, and Sheriffs of *London*, and Constable of the Tower, to guard and assist him.

D

Ibid. n. 2, 3, 4, 5

Many of his Accomplices had the same Judgment.

Rot. Parl. 50.
Ed. 3. n. 40.
al. 50.

In the Fiftieth of *Edward* the Third, the Parliament do acknowledge *Richard* the Second to be very Heir to the Crown, as Son to *Edward* the Black Prince, very Heir to the Crown; and petition the King (his Father being dead) to make him Prince of *Wales*.

E

[1] *Walsingham*.
fol. 193. n. 40.
[2] *Ibid.* f. 195
n. 10.

Who, after his Grandfather's death, was immediately by all People, the [1] *Londoners* especially, acknowledged, owned and addressed to as King; and not long after [2] Crowned with great Solemnity. He lived continually in Tumults, and by his Great Uncles his Reign was made uneasy, and at length was deposed and murdered by a Potent Faction.

F

The Author of the *Brief History of Succession*, fol. 7. recommends to his Readers the thirty three Articles drawn up against *Richard* the Second, as well deserving to be read; with hope and design, as easily may be guessed, to make them believe and think he was justly deposed and

and

and murdered. But Mr. Hollingshed, a moderate Writer, who hath truly related these Articles, and all the Transactions of his Deposition and Murder, tells us, [1] that whatsoever Writers do report, touching the State of the time and Doings of the King, yet if he might boldly speak what he thought, He was a Prince the most unthankfully used of his Subjects of any one of whom ye shall lightly read: For, although (through Frailty of Youth) he demeaned himself more dissolutely than seemed convenient for his Royal Estate, and made choice of such Counsellors as were not favoured of the People; whereby he was the less favoured himself. Yet in no Kings days were the Commons in greater Wealth, if they could have perceived their happy State. Neither in any other time were the Nobles and Gentlemen more cherished, nor Church-men less wronged. But such was their Ingratitude towards their bountiful and loving Sovereign, that those whom he had chiefly advanced, were readiest to control him, for that they might not rule all things at their Will, and remove from him such as they misliked, and place in their rooms whom they thought good; and that rather by strong Hand, than by gentle and courteous means: Which stirred such malice betwixt him and them, till at length it could not be asswaged, without peril of Destruction to them both.

[1] Third
Vol. of Chron.
f. 508. n. 50.

The chief Instruments in deposing this King were Henry Duke of Lancaster, late Earl of Derby, and Thomas Arundel Archbishop of Canterbury: who assisted by others, reduced the unfortunate King to so great Straits, as he was weary of his Government. They having him in their power, kept him safe in the Tower of London, until a Parliament was called; which was suddenly done, by directing Writs in the King's [2] Name, to those who of Right ought to be there. All things were prepared for the Resignation of his Crown against the time of the meeting of the Parliament. He [3] was, by certain Commissioners appointed by it, deposed; or had rather a Resignation of the Crown extorted from him, though he seemed willing and forward to do it.

Walsingham,
f. 358. n. 50.

[2] Ibid. f. 359
lin. 1.

[3] Rot. Parl.
1. H. 4. n. 52.

And then the Duke of Lancaster claimed the Crown in Parliament, and challenged the Realm, [4] ALS DESCENDIT BE RYGH
LYNE OF THE BLODE COMEYNGE FRO THE GUIDE LORD
HENRY THERDE.

Henry the
Fourth.
[4] Ibid. n. 53.

Postquam quidem [5] vindicationem & clameum tam Domini Spirituales quam Temporales, & omnes status ibidem presentes, singillatim & communiter interrogati, quid de illa vindicatione, & clameo sentiebant. Idem status cum toto populo absque quacunque difficultate vel mora, ut Dux prefatus super eos regnaret, unanimiter consenserunt.

[5] Ibid. n. 54.

After which Claim and Challenge, as well the Lords Spiritual as Temporal, and all States there present being severally asked what they thought of that Challenge and Claim, the same States, with all the People, without difficulty or delay, consented the aforesaid Duke should reign over them.

And then shewing to the States the [6] Signet of King Richard, which he gave him as a token of his desire to have him succeed him: The Archbishop, taking him by the Right Hand, placed him in the Throne.

[6] Ibid. Sum.
voluntatis.

Here

Here we see the Foundation of the Parliaments Consent, that *Henry* should be King, was a pretended Right of Blood, and the desire of King *Richard* that it might be so.

Henry the Fourth his Title.

Henry the Fourth was Son to John of Gaunt, Duke of Lancaster, fourth Son to Edward the Third, by Blanch his Wife, Daughter and Heir of Henry Duke of Lancaster, Son of Henry Earl of Lancaster, Brother and Heir to Thomas Earl of Lancaster, eldest Son to Edmund called Crouch-Back the First Earl of Lancaster, Second Son to King Henry the Third.

A

[1] *Sir J. Howard's Life of Hen. 4. P. 99.*

Upon [1] Consideration had of this Title, it was conceived to be insufficient, and that it would pass for a Blind and Pretence only. And therefore King *Henry*, upon the day of his Coronation, caused to be proclaimed, That he claimed the Kingdom of *England*; [2] First, *By Right of Conquest*: Secondly, *Because King Richard had resigned his Estate, and designed him for his Successor.* And lastly, *Because he was of the Blood-Royal, and NEXT HEIR MALE UNTO KING RICHARD.*

B

[2] *Ibid. p. 99.*

In this Claim he takes no notice of any Election by the People, nor doth own the least Right in them to elect him; but founds his Title upon Conquest, and Proximity of Male-Blood, and Donation of *Richard* the Second.

C

Hen. 4, 5, & 6.

[3] *Rot. Parl. 39 H. 6. n. 11. Richard Duke of York his Claim.*

Henry the Fourth, Fifth and Sixth held the Crown by Usurpation, without much disturbance, until the thirty ninth Year of Henry the Sixth; [3] when Richard Duke of York put in his Claim, as Heir to Philippa, Daughter and Heir to Lionel, the third gotten Son of King Edward the Third; to whom the Right, Title, Dignity Royal, and Estate of the Crowns of the Realms of England, and of France, and of the Lordship and Land of Ireland, of Right, and Law, and Custom appertaineth and belongeth, before any Issue of John of Gaunt, the fourth gotten Son of the same King Edward.

D

Ibid. n. 12.

The Lords Spiritual and Temporal, the Question being put, what they thought of the Duke's Claim, answer, that *The Matier was so high, and of such wyght, that it was not to any of the King's Subjects to enter into Communication thereof, without his high Commandment, Agreement and Consent had thereto.*

E

Ibidem.

The Duke pressing for an Answer, all the Lords went unto the King, and opened the Claim by the Mouth of the Chancellor of *England*; and it pleased him to pray and command all the said Lords, that they should search, as much as in them was, to find all such things as might be object, and leyde against the Claim and Title of the Duc.

Ibidem.

Whereupon, in the Morning, *October 18.* the Lords sent for the King's Justices to defend his Title, against the Claim of the Duke of *York*; and in the King's Name, streightly commanded them to find all Objections as might be laid against the same, in fortifying of the King's Title.

F

Who,

Who, on Monday following, on the 20th of October, answered, that the matter was so high, and touched the King's high Estate and Regalie, which is above the Law, and passed their Learning: Wherefore they durst not enter into any Communication of the same, for that it pertained to the Lords of the King's Blode, and th' Apparage of this his Londe; and therefore besought all the Lords to have them utterly excused.

Ibidem.

A Then the Lords sent for all the King's Serjeants and Attorney, and gave them streight Commandment in the King's Name, that they sadly and avisely shuld serch, and take all such things as might be best and strongest to be allegged for the King's Avail in Objection, and defeating of the Title, and Cleyment of the Duc.

Ibidem.

B They answered, that if this matier passed the Larning of the Justices, it must needs exceed their Larning: and also that they durst not enter into any Communication in that matier: and prayed and besought all the Lords to have them excused by geveing any Advice or Counsel therein. But the Lords would not excuse them: and therefore, by their Advice and Assistance, it was concluded by all the Lords, that the Articles following should be objected agens the Glayme and Title of the Duc.

Ibidem.

C 'First, It is thought that the Lords of this Lond, must needs call to their remembrance the great Oaths the which they have made to the King, the which may be leyed to the said Duc of York; and that the Lords may not break their Oaths.

Ibid. n. 13.

D 'Item, It is thought also, that it is to be called to remembrance the great and notable Acts of Parliament of divers of the King's Progenitors. The which Acts be sufficient and reasonable to be leyed agens the Title of the said Duc of York. The which Acts be of much more Authority than any Chronicle; and also of Authority to defete any manner of Title, made to any Person.

'Item, It is thought that there is to be leyed ayent the Title divers Inteyles made to the Heirs Males of Henry the Fourth, as for the Crown of England, as it may appear by divers Chronicles and Parliaments.

E 'Item, It is thought, to be allegged the Title of the said Duc, that the tyme that King Henry the Fourth toke upon him the Corone of England, he said he entered and toke upon him the Corone as right Inheritor to King Henry the Third, and not as a Conqueror.

To which Articles the Duke answered.

F First, That no Oath being the Lawe of Man, ought to be performed, when the same leadeth to suppression of Truth and Right, which is agens the Lawe of God.

Ibid. n. 14.

To the second and third, That in trouthe there been noo such Acts and Tayles made by any Parliament heretofore, as it is surmised, but only in the [4] seventh yere of King Henry the Fourth, a certain Act and Ordinance was made in a Parliament by him called, wherein he made the

Ibid. n. 15.

[4] Cap. 2.

the Reaums of Englonde and France, amongst other, to be unto him, and to the Heires of his Body comeing, and to his four Sons, and to the Heires of their Body comeing, in manner and fourme as it apperith in the same Act. And if he might have obteyned and rejoyced the Coronas, &c. by Title of Inheritance, Discent, or Succession, He neither needed or would have desired or made thaim to be granted to him in such wyse as be by the said Act, which tacketh noo place, neither is of eny force or effect ayenst him that is right Inhariter of the sayd CORONES, as it accordeth with Gods Lawe, and all Natural Lawes; howe it be that all other Acts and Ordinances made in the seyde Parliament sithen, been good and sufficient ayenst all other Persons.

A

Ibid. n. 17.

To the fourth, That such seying of the King Herry the Fourth, may in no wyse be true; and that the contrary thereof, which is trouth, shall be largely enough shewed, approved, and justified by sufficient Autorite, and matter of Record; and over, that his seyde seying was only to shadowe and cover fraudulently his seyde unrightwyse and violent Usurpation, and by that moeyen to abuse disceyweably the People standing about him.

B

Ibid. n. 18.

Upon consideration of this Answer, and Claim of the Duke of York, it was concluded and agreed by all the Lords, That his Title could not be DEFETED; and therefore for eschuyng the great Inconvenients that may ensue, a mean was found to save the King's Honor and Estate, and to appease the said Duc, IF HE WOULD; which was, That the King should enjoye the Corone during Life, the Duke to be declared the true Heir, and to possess it after his Death, &c.

C

The Ground
and Foundati-
on of Successi-
on to the
Crown declar-
ed in Parle-
ment.

In the first Article of this Agreement, or Accord, (as 'tis there called) the Title of the Duke of York is set forth; and the Judgment of the Parliament given, what then was, and before had been the Foundation and Ground of the Succession to the Crown of England, that is, Proximity of Blood. The Articles follow, so much of them as is pertinent to this matter.

D

First, Where the seyde Richard Duc of Torke hath declared and opened, as above, his seyde Title and Cleyme in manner as followeth. That the right noble and worthy Prince Herry King of Englonde the Third, had Issue and leefully gate Edward his first-begotten Son, born at Westminster the xv Kalend. of Juyle, in the Vigil of St. Mart. & Marcellian. the Tere of our Lord M. CC. XXXIX. and Edmund his second gotten Son, which was born on Seint Marcell. day, the Tere of our Lord M. CC. XLV. The which Edward, after the death of the seyde King Herry his Fader, entituled and called King Edward the First, had Issue Edward his first-begotten Son, entituled and called after the decease of the seyde first Edward his Fader, King Edward the Second; which had Issue and leefully gate the ryght Noble and Honourable Prynce Edward the Third, true and undoubted King of Englonde, and of France, and Lord of Ireland: Which Edward the Third, true and undoubted King of Englonde, and of France, and Lord of Ireland, had Issue and leefully gate Edward his first begotten Son, Prynce of Wales; William Hatfield, second-begotten; Leonell, third-begotten, Duc of Clarence; John of Gaunt, fourth-begotten, Duc of Lancaster; Edmund Langley, fifth-begotten, Duc of Yorke; Thomas Woodstock, sixth-begotten, Duc of Gloucester; and William Wyndesore, the seventh-begotten.

E

F

The

The *seyd* Edward Prynce of Wales, which dyed in the lyfe of the *seyd* Edward King, had Issue and leefully gate Richard, the which succeeded the same Edward King, his Grandfather, in Royal Dignity, entituled and called King Richard the Second, and dyed without Issue. William Hatfield, the second-goten Son of the *seyd* Edward King, dyed without Issue. Leonell, the third-goten Son of the same King Edward, had Issue and leefully gate Philippa his oonly Daughter and Heir, which by the
A Sacrament of Matrymony copled unto Edmund Mortimer Erle of March, had Issue and leefully bare Rogier Mortimer Erle of March, her Son and Heir: Which Rogier Erle of March had Issue and leefully gate Edmund Erle of Marche, Rogier Mortymer, Anne, and Alianore; which Edmund, Rogier, and Alianore dyed without Issue: And the
B *seyd* Anne, under the Sacrament of Matrymony, copled unto Richard Erle of Cambridge, the Son of the *seyd* Edmund Langley, fifth-begoten Son of the *seyd* King Edward, as it is afore specified, had Issue and leefully bare Richard Plantagenet, commonly called Duc of Yorke: The *seyd* John of Gaunt, the fourth-goten Son of the *seyd* King Edward, and younger Brother of the *seyd* Leonell, had Issue and leefully gate Henry Erle of Derby, which incontinent after the tyme that the *seyd* King Richard resigned the Coronas of the *seyd* Reaumes, and the *seyd* Lordship of Ireland, unrightwysely entered upon the same, then being on lyve Edmund Mortymer Erle of Marche, Son to Rogier Mortymer Erle of March, Son and Heir of the *seyd* Philippa, Daughter and Heir of the
C *seyd* Sir Leonell, the third Son of the *seyd* King Edward the Third; to the which Edmund the Ryght and Title of the *seyd* Coronas and Lordship by Lawe and Custome belonged.

Before we pass over these three Usurpers, we must take notice of a Passage in Polydore Virgil concerning Henry V. in these words: *Princeps Hen. facto Patris funere, Concilium Principum ad Westmonasterium convocandum curat, in quo dum de Rege creando more majorum agitabatur, Ecce tibi de repente aliquot Principes ultro in E F U S V E R B A* jurare ceperunt. *Quod Benevolentia Officium* [1] nulli antea priusquam Rex renunciatus esset, praestitum constat: adeo Hen. ab ineunte aetate spem omnibus optima indolis fecit. Creatur itaque Rex ad quintum Iduum Aprilis eo Anno quo Pater e vita excesserat, & Quintus ejus Nominis Henricus dictus est.

The [2] Author of the *Brief History of Succession* thus renders this
E Sentence: Immediately upon the death of Henry the Fourth a Parliament [3] MET at Westminster, and there, according to the Custom of the Realm, it was debated who should be King: But all men had entertained so good thoughts of Prince Henry, that without staying till the whole Assembly had declared him King, divers of them began to swear Allegiance to him; a thing strange, and without president, as only occasioned by extraordinary Opinion which was generally conceived of him before, and the certain Title vested in him by [4] Act
F of Parliament.

In his Citation of the Latin, he leaves out these Words which belong to this piece of Story, and do declare the meaning of it: *Creatur itaque Rex ad quintum Iduum Aprilis eo Anno quo Pater e vita excesserat, &c.* He was Crowned King on the fifth of the Ides of April, the same year his Father died.

Z z

The.

Lib. 22. sub initio, fol. 433. n. 30.

[1] Edw. I. was in Palestine when his Father died, yet acknowledged K. before his return. K. John was acknowledged King before his Coronation also.
[2] Fol. 7.
[3] The words are Concilium Principum convocandum curat. If this was a Parliament, he must be King before he could call it.
[4] He means the Act of Entail of the Usurpation, 7 H. 4. c. 2.

Tho. Walsingham who lived at this time, says, *Henry* the Fourth died *March 20. 1413.* And then, *eodem Anno Coronatus Londoniis Henricus Primogenitus Regis Henrici nuper defuncti quinto Iduum Aprilis, &c.* The same year *Henry* the First-born of King *Henry* lately deceased, was Crowned at *London* on the fifth of the Ides or tenth of *April.* By which words of *Walsingham* 'tis evident he hath mistaken the meaning, and fallily translated the Words of *Polydore*; for they ought to be Englished in this manner.

A

Prince *Henry* having buried his Father, caused a Council of the Chief Men of the Nation to be called at *Westminster*, in which they treat, or debate about Crowning the King, according to the Custom of his Predecessors; forthwith some of the Great Men began to swear as he dictated to them, which officious Benevolence was performed to none before he was declared King; such hope he had given from his Childhood of an excellent Disposition: therefore he was Crowned King on the fifth of the Ides of *April*, that Year his Father died, and was called *Henry* the Fifth. An intelligent Man would wonder how the Writer of the *Brief History, &c.* should SQUEEZE his Translation out of these Latin words.

B

But *Polydore*, who, as I hinted before, was very unfit to write the English History, hath very oddly in Latin express'd this Relation, as he likewise hath done many other Stories. His Character take from Sir *Hen. Savile*, in his Epistle to Queen *Elizabeth*, before his Edition of the old English Writers after *Bede.* *Polydorus* (saith he) *ut homo Italus, & in rebus nostris hospes (Quod caput est) neque in Republica versatus, nec magni alioqui vel iudicii, vel ingenii, pauca ex multis delibans, & falsa plerumque pro veris amplexus, Historiam nobis reliquit cum cetera mendosam tum exiliter sane & jejune conscriptam.* *Polydore*, as he was an *Italian*, and a Stranger in our Affairs, and, which was the chief matter, not understanding our Government and Laws, nor otherwise of great Wit or Judgment, chusing a few things out of many, and oft-times taking false things for true, hath left us a very faulty History, slightly and pitifully written.

C

D

Edward the Fourth.
[5] Rot. Parl.
1 Edw. 4. n. 9.
10, 11, 12, 13.
&c.

After the Reign of these three Usurpers, and Deposition of *Henry* the Sixth, in the [5] first of *Edward* the Fourth, the Proceedings against *Richard* the Second are Repealed, where 'tis said, That *Henry* Earl of *Derby*, afterwards *Henry* the Fourth, temerously ayenst ryght-wisnesse and Justice, by Force and Arms, ayenst his Faith and Ligeance, rered *Werre* at *Flynt* and *Wales* ayenst King *Richard* the Second, him tooke, and imprisoned in the Tower of *London*, in great violence, and usurped and intruded upon the Royal Power, Estate, Dignity, &c. And not therewith satisfied or content, but more grievous thing attempting, wickedly, of unnatural, unmanly, and cruel Tyranny, the same King *Richard*, King Anointed, Crowned, and Consecrated, and his Liege and most Sovereigne Lord in Earth, against Gods Lawe, Mans Ligeance, and Oath of Fidelity, with uttermost punction, attormenting, murdered, and destroyed, with most vile, hainous, and lamentable Death, &c.

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Ibidem.

The Commons being of this present Parliament, having sufficient and evident knowledge of the said unryghtwyse Usurpation and Intrusion, by the said *Henry* late Earl of *Derby*, upon the said Crown of England,

A England; knowing also certainly, without doubt and ambiguity, the Right and Title of our said Sovereigne Lord thereunto true, and that by Gods Lawe, Mans Lawe, and the Lawe of Nature, he, and none other, is, and ought to be, their true, *ryghtwysse*, and natural Liege, and Sovereigne Lord, and that he was in right from the Death of the said Noble and Famous Prince his Father, very just King of the said Realm of *England*, doe take, accept, and repute, and will for ever take, accept, and repute the said *Edward* the Fourth, their Sovereigne and Liege Lord, and him and his Heirs to be Kings of *England*, and none other, according to his said Right and Title.

B And that the same *Henry* unryghtwysely, against Lawe, Conscience, and Custome of the said Realm of *England*, usurped upon the said Crown and Lordship; and that he, and also *Henry* late called King *Henry* the Fifth, his Son, and *Henry* late called King *Henry* the Sixth, his Son, occupied the Realm of *England* and Lordship of *Ireland*, and exercised the Governance thereof, by *unryghtwysse*, *Intrusion*, *Usurpation*, and no otherwise.

C That the Amotion of *Henry*, late called King *Henry* the Sixth, from the *Exercise*, *Occupation*, *Usurpation*, *Intrusion*, *Reign* and *Governance* of the same Realm and Lordship, done by our Sovereigne Lord King *Edward* the Fourth, was and is *rightwysse*, *lawfull*, and according to the *Lawes* and *Customes* of the said Realme, and soe ought to be taken, holden, reputed, and accepted.

Further. Some, if not all the Grants made by *Henry* Earl of *Derby*, called *Henry* the Fourth, the said *Henry* his Son, or the said *Henry* called *Henry* the Sixth, or by *Authority* of any *pretenced* Parliament, in any of their days, were reputed *null* and *void*.

D That the unryghtwysse and *unlawfull* *Usurpation* and *Intrusion* of the same *Henry* upon the Crown of *England* and Lordship of *Ireland*, was to the great and intolerable hurt, prejudice, and derogation of *Edmund Mortimer* Earle of *March*, next *Heir* of *Blood* of the said King *Richard* at the time of his Death, and to the *Heirs* of the said *Edmund*, and to the great and excessive Damage unto the Realm of *England*, and to the *politick* and *peaceable* Governance thereof, by inward Wars, moved and grounded by occasion thereof.

E In the First of *Richard* the Third, the [1] Three Estates, after having much faulted the *Government*, *Marriage*, and Person of *Edward* the Fourth, and affirmed, That the *Right* and *Title* of the Issue of *George* Duke of *Clarence* was barred by his *Attainder*, and *extolling* the *Parts*, *Wisdom*, and *Justice* of *Richard* his Brother, declared him *undoubted* *Heir* of *Richard* Duke of *York*, Father to *Edward* the Fourth, *very* *Inheritor* of the Crown of *England*, and Dignity Royal, and as in Right King of *England* [2] by way of *Inheritance*; and therefore having in his great prudent Justice, Princely Courage, and excellent Virtue, singular Confidence, did by Writing (in all that in them lay) *chuse* him their King and Sovereign Lord, to whom they knew of certain it appertained to be so chosen, &c.

Ibidem.

Ibidem.

Ibidem.

Ibidem.

Richard the Third.
[1] Exact Abridgment, fol. 712. In this Abridgment the whole Record of 1 R. 3. is printed.

[2] Ibid f 713

Ibidem.

And do further declare, That the *Right, Title, and Estate* which King *Richard* the Third had to, and in the *Crown*, and Royal Dignity of the Realm of *England*, with all things thereunto within the said Realm, and without it, annexed and appertaining, was just and lawful, as grounded upon the *Laws* of God and *Nature*, and also upon the *antient Laws* and *laudable Customs* of this said Realm, as also taken and reputed by all such *Persons* as were *learned* in the abovesaid *Laws* and *Customs*.

A

[3] Ib. f. 714.

And then they proceed, and say, Yet nevertheless, forasmuch as it is considered that the most part of the People is not *sufficiently* [3] *learned* in the abovesaid *Laws* and *Customs*, whereby the *Truth* and *Right* in this behalf of likelyhood may be hid, and not clearly *known* to all the People, and thereupon put in doubt and question. And over this, how that the *Court of Parliament* is of such *Authority*, and the People of this Land of such a nature and disposition, as *Experience* teacheth, that *Manifestation* or *Declaration* of any *Truth* made by the *Three Estates* of this Realm assembled in Parliament, and by *Authority* of the same, maketh before all other things most faithful and certain quieting of Mens minds, and removeth the occasion of Doubts and seditious Language.

B

Ibid. f. 717.

Therefore at the Request, and by the Assent of the *Three Estates* of this Realm, *THAT IS TO SAY, The Lords Spiritual and Temporal, and Commons of this Land, assembled in this present Parliament*, and by the Authority of the same, be it pronounced, decreed, and declared, That our said Sovereign Lord the King, *was and is* the very undoubted King of this Realm of *England*, with all things thereunto belonging, within the said Realm, and without it, united, annexed, and appertaining, as well by Right of *Consanguinity* and *Inheritance*, as by lawful *Election*, *Consecration*, and *Coronation*.

C

Election here
can signifie no-
thing but Re-
cognition.

Henry the
Seventh.
[1] Bacon's
Hist. f. 7.
[2] Rot. Parl.
1 H. 7.

Hereditary Right, and Right of *Blood*, was the Ground of this Establishment.

D

Henry the Seventh having no *Hereditary Title* of his own, and being always [1] averse to take upon him the only *true* and *undoubted Title* of his Queen, eldest Daughter and Heir to *Edward* the Fourth, procured an Act of Parliament [2] That the *Inheritance* of the Crown of the Realms of *England* and *France*, with all the *Preeminencies* and *Dignities* Royal to the same appertaining, and the *Ligeances* to the King belonging beyond the Seas, &c. *shall be, rest, remain, and abide* in the most Royal Person of our most Sovereign Lord *Henry* the Seventh, and in the Heirs of *his Body* lawfully coming, perpetually, and so to endure, and no otherwise.

E

It may be noted from these words, That the *Inheritance* of the Crown should *rest, remain, and abide* in the King, &c. That he designed not a Declaration or Recognition of his Right, but rather an *Establishment* of that *Possession* he had gotten by the *Sword*; for not thinking this Act a *Sufficient Security* for him, nor depending on this *Parliamentary Title*, he extended his pretences beyond this Establishment, in as much as he procured it to be confirmed the year following by the Bull of *Pope Innocent* the Eighth, in which this Statute, with

F

with his *Titles of Conquest, and Descent*, are mentioned and confirmed. * The Bull says, That the Kingdom of England belonged to him by undubitable right. *Non modo jure Belli, ac notorio & indubitato proximo successionis Titulo, verum etiam omnium Prelatorum, Procerum, Magnatum, Nobilium, totiusque ejusdem Regni Angliæ plebis Electione, & noto ac decreto statuto & ordinatione ipsius Angliæ Regni trium Statuum, in ipsorum conventu Parlamento nuncupato :*

* In Cotton. Libr. Cleopat. E. 3.

A

That is, Not only by the right of War, and the notorious and indubitable next * *Title of Succession*, but also by the election of all the Prelates, and Great Men, and of the whole Commonalty of the Kingdom of England, and by a known and decreed Statute and Ordinance of the Three Estates of the same Kingdom of England, in their meeting called a *Parliament*.

* It is true, if meant in right of his Queen. And note. He prefers his Title by Conquest and Succession, before that by Act of Parliament.

* Ibidem.

B

And afterward in the Thirteenth of his Reign, he got his Bull renewed and the Act confirmed again by * Pope Alexander the Sixth, under pain of Excommunication, and Curse to such as should upon any pretence whatsoever, disturb the Peace of the Nation, and create troubles against this Title of Henry the Seventh.

C

So that notwithstanding this Act of Parliament, which was cunningly penned to establish his Possession he had obtained by the Sword, He thought that, and the Popes Bulls of Confirmation his best Title, yet not omitting his own pretended indubitable next Right of Succession.

D

Henry the Eighth, next Heir to the Crown by Proximity of Blood, as right Heir to his Mother Elizabeth, Daughter and right Heir to Edward the Fourth, succeeded his Father in his Kingdom; who in all Extravagant Acts concerning his Queens and the Succession, ever founded it in pretended legal Proximity of Blood, and Lawful next Heirs of Blood, according to the due course of Inheritance; the pretended want of which, was the only suggestion for passing these Acts.

Henry the Eighth.

E

In the Twenty fifth of Henry the Eighth there was an Act for the Succession; the preamble this. *In their most humble wise shewen unto your Majesty your most humble and obedient Subjects the Lords Spiritual and Temporal, and Commons in this present Parliament, &c. That since it is the natural inclination of every man to provide for the safety both of his Title and Succession, although it touch his only private Cause; we therefore reckon our selves much more bounden to beseech and instant your Highness to foresee and provide for the perfect surety of both you, and your lawful Succession, and Heirs, upon which dependeth all our joy and wealth, in whom also is united and knit the only meer * TRUE INHERITANCE, and TITLE of this Realm without any contradiction. And then mentions, that certain divisions arose upon ambiguities, and doubts not perfectly declared from froward intents, to expound them contrary to the right legality of the Lawful Succession, and posterity of the lawful Kings and Emperors of this Land.*

Cap 22. The first Act of Entail of the crown, 25 Hen 8.

* As being the Issue and Heir of both Houses of York and Lancaster.

F

After this confirming the Divorce of Queen Katherine, as also the King's Marriage with Anne Boleyn, the Parliament entayles the Crown upon him and his Heirs Male by her, and for want of such Issue upon

upon Elizabeth their eldest Daughter, and their Heirs Females according to the *due course* of Inheritance.

From whence it appears, that the Succession was founded upon Inheritance, and the design of the Act was, that Henry the Eighth might have Lawful Issue to inherit the Crown, that so all Ambiguities, and Doubts about the Succession might be taken off. And all the Kings Subjects were bound, under pain of Misprision of Treason, to swear to observe the Contents of this Act. A

The 2d Act of
Succession,
28 Hen. 8.

Pult. Stat.
f. 628. 630.
Ibid. f. 633.

Ibidem.

Ibid. f. 631.

Ibid. f. 632.

Ibidem.

The Act for Succession, 28 Hen. 8. c. 7. affirms there were many Lawful impediments, unknown at the making of the Act of Succession, 25 Hen. 8. c. 22. which since that time were confessed by the Lady Anne before Thomas Archbishop of Canterbury sitting Judicially for the same: By reason of which Impediments, the Kings Marriage with her was never good, nor consonant to the Laws; and therefore Queen Elizabeth was declared Illegitimate, and it was declared Treason for any Man to judge or believe the Marriage between the King and the Lady Katherine, or Anne, to be good, lawful, or of any effect. It was also in this Act declared Treason for anyone to take, accept, name, or call any of the Children born and procreate under those unlawful Marriages, legitimate, or lawful Children of the King. And therefore the Crown was settled upon the King and his Heirs Males by his Lawful Queen Jane; and for want of such Issue by her, upon his Heirs Males by any other Lawful Wife; and for want of Heirs Males, upon his Heirs Females by Queen Jane, or any other lawful Wife. And for lack of Lawful Heirs of his Body to be procreated and begotten as is limited by this Act, to such Person and Persons in Possession and Remainder, as should please the King; and according to such Estate, and after such manner, form, fashion, order, and condition, as shall be expressed, declared, named, and limited by his Letters Patents, or by his last Will. And then follows, And we your most humble and obedient Subjects, do faithfully promise to your Majesty by one Common Assent, That after your decease, and for lack of Heirs of your Body lawfully begotten, as is afore rehearsed, We, our Heirs and Successors, shall accept and take, love, dread, serve, and alonely obey, such Person and Persons, Males or Females, as your Majesty shall give your said Imperial Crown unto, by Authority of this Act, and to none other; and wholly to stick to them as true and faithful Subjects ought to do to their Regal Rulers, Governours, and Supream Heads. B C D E

To provide for Lawful Heirs was the pretended Ground of this Act of Succession; not to exclude them, and to give the King a strange unheard of Power to dispose of the Crown, &c.

The Third Act
of Entail,
35 of Hen. 8.

The Thirty fifth of Henry the Eighth, cap. 1. recites how the Crown was entailed, 28 Hen. 8. and what Power was given to him to dispose of the Crown. To the intent therefore, that His Majesty's disposition and mind therein might be openly declared, and manifestly known, His Majesty designing a Voyage beyond Sea; it was enacted by his Highness, with the Assent of the Lords Spiritual and Temporal, and Commons in Parliament assembled, and by Authority of the same, That in case it should happen, the King's Majesty, and Prince Edward, Heir Apparent, to die without Issue of their Bodies lawfully begotten, fo F

so as there be no Heirs Male or Female of either of their Bodies to have and inherit the said Imperial Crown, that then it should be to his Daughter Mary, and her Heirs lawfully to be begotten under such Conditions as should be limited by the King's Letters Patents, or his last Will: And for default of Issue, to his Daughter Elizabeth upon the same Conditions. But if no Conditions were appointed, then the Succession to each of them, one after another, absolutely.

A

And for want of Heirs by his Queen Katherine, his Lawful Wife; and for want of Lawful Issue of Prince Edward, his Daughters Mary and Elizabeth, then the King to dispose of the Crown at his only pleasure from time to time.

B

All these Acts of Succession were made by the King's Solicitation, Authority, Command, or other Procurement; and were not otherwise moved, contrived, or offered to him.

All the Acts of Entail, in the Time of Henry, were of his own Solicitation. 1 Mar. Session 1. c. 1. Queen Mary.

In the First of Queen Mary there is an Act, declaring the Queens Highness to have been born in most just and faithful Matrimony; and also repealing all Acts of Parliaments and Sentence of Divorce made or had to the contrary. The intention of this Act was to declare the Succession to be in Inheritance by Right of Blood.

C

In the First of Elizabeth, the Lords Spiritual and Temporal, and Commons do declare and confess that Queen Elizabeth, and in very deed, and of most meer Right, ought to be, by the Laws of God, and the Laws and Statutes of this Realm, their most rightful and lawful Sovereign Queen: And that she was rightly, and lineally, and lawfully descended and come of the Blood-Royal of this Realm of England; in and to whose Princely Person, and the Heirs of her Body lawfully begotten after her, without all Doubt, Ambiguity, Scruple or Question, The Imperial Crown and Dignity of this Realm was really and entirely vested. In this Law (whether it were true or not in her) the right, lineal and lawful Descent of Queen Elizabeth was the Ground upon which she was declared to be by God's Laws, and the Laws and Statutes of this Realm, most rightful and lawful Queen.

1 Eliz. c. 3. Queen Elizabeth.

D

And whatever she and her Council secretly thought of her own Personal Title; Yet upon the Treaty of Marriage with the Duke of Anjou, in the Answer to the Sixth Article delivered by the French Ambassador, it is declared, That the Succession in her Kingdoms was, and ought to be Hereditary, according to nearness in Blood. The words are,

The Complete Ambassador. f. 85, 86, 87

E

Liberi ex hoc Matrimonio prognati in materna hereditate succedent in regnis, secundum jura & consuetudines regnorum, viz. primogenitus filius in Coronam quam Regina mater habet, & si nulli extabunt filii Masculi, filia si extabunt, viz. prima & sola maxima natu, &c. Atque idem ut fiat in hereditate paterna equum est, & quomodo consuetudines locorum id ferent, intelligi par est. That is, The Children begotten of this Marriage shall succeed in the Mothers Inheritance in the Kingdoms, according to the Laws and Customs of the Kingdoms; that is to say, The First born Son shall enjoy the Crown which the Queen Mother hath. And if there be no Issue Male, the Daughters, if there be any, shall succeed; that is to say, the Eldest first, and alone, &c. And that it is just, the Succession should obtain after the

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same

same manner in the *Paternal Inheritance*, if the Custom of the places would allow it.

King James.

[1] Jac. c. 1.

[2] Ibidem.

[3] Ibidem.

[4] Ibidem.

After the death of Queen *Elizabeth*, the *Act of Recognition*, made upon King *James* his coming to the Crown, doth not take notice of the Title raised by *Act of Parliament* to Henry the Seventh, and the Heirs of his Body: But declares [1] that he was *Lineally, Rightfully and Lawfully descended of the Body of the most excellent Lady Margaret, eldest Daughter of the most renowned King Henry the Seventh, and the high and noble Princess, Queen Elizabeth, his Wife, eldest Daughter of King Edward the Fourth.* The said Lady *Margaret* being eldest Sister of King *Henry* the Eighth, Father of the High and Mighty Princess of Famous Memory, *Elizabeth*, late Queen of *England*: [2] In consideration whereof, the Parliament doth acknowledge King *James* their only *Lawful and Rightful Liege Lord and Sovereign.* [3] And further say, as being bound thereunto both by the *Laws of God and Man*, they do recognize and acknowledge [4] that *Immediately upon the Dissolution and Decease of Elizabeth, late Queen of England, the Imperial Crown of the Realm of England, and all the Kingdoms, Dominions and Rights belonging to the same, did by inherent Birth-right, and lawful and undoubted Succession, descend and come to His most excellent Majesty, as being lineally, justly and lawfully next, and SOLE HEIR of the Blood-Royal of this Realm, as it is aforesaid.* And thereunto they do most humbly and faithfully submit and oblige themselves, their Heirs and Posterities for ever, until the last drop of their Bloods be spent?

What can be clearer, than that the *Succession* to the Crown of *England* was always thought, judged, had, taken and reputed to be from *Nextness* of Blood, by the Opinion of all sober Men, by *Law and Custom*, by this and other *Acts of Parliament*, and *Statutes* before cited.

This then being the *true History* and *Case of Succession* to the Crown of *England*, and its being only founded upon Proximity of Blood, the Author of the *Brief History of Succession*, &c. ought to have called it *An History of Usurpations, Seditions and Rebellions.* It was written and intended for a purpose he will not own; that is, to shew, that *In the English Monarchy there is not Right of Succession*; but that *Parliaments* or *Armies* may set up whom they please.

This, I confess, hath been practised in this Nation; and it was the main Cause of the War between the Families of *Tork* and *Lancaster*; that proceeding from the *Right* of the one Party, and *Possession* of the other, and the *Contrarieties* of *Acts of Parliament*, was caused by the *Alternate Victories* of both.

But the doing of a thing makes it not lawful: *Repeated Wickedness*, or the frequent Repetition of *Wickedness*, gives no *Authority* to any one to commit that *Wickedness*, as the frequency of *Adulteries* or *Robberies*, doth not justify either of them.

I think it's no good *Argument* to say, *Edward* the Second was deposed and murdered; therefore *Richard* the Second might be deposed and

and *murthered*; or, That they were both *deposed* and *murthered*, therefore *Charles* the First might be *deposed* and *murthered*; or, Because *King Charles* the First was *deposed* and *murthered*, therefore *King Charles* the Second may be *deposed* and *murthered*.

Precedents are of force only in things *lawful*, *obscure* or *dubious*, but never in things *unjust*.

A The Depositions and Murthers of *Edward* the Second and *Richard* the Second, the *Usurpations* and unlawful *Actions* of *Henry* the Fourth and *Richard* the Third, were in their own times *condemned* by all good Men, even as the *Actions* of that Parliament began in 1641. in ours, which I suppose is the *reason* why the Author of the *Pamphlet* brings not them in as a *Precedent*; which would have served his turn better than all his other *Instances*.

B But besides their *impious Instances*, we ought to take notice of the *Expressions* of these Men of *Jesuitical Principles*. They call *Usurpation* the *Election* of the People; a *Faction*, the *Commonwealth*; the *Actions* of a few they impute to all; They call *Rebellion* a just and judicial *Proceeding*; often and open *Perjury*, an *orderly Revoking* of a *Sentence*; God's *secret Judgment* in permitting *Injustice* to prevail, his *owning* and *allowance* thereof; the *Inconsistency* and present *Humour* of the heedless *Multitude*, (who judge of things, not by *Reason* or *Justice*, but either by *Opinion*, which commonly is partial; or else by *Report*, which is usually full of *Incertainties* and *Errors*, the most part *Doing* because others *Do*; all easie to be drawn in to serve any *wicked* and *ambitious Mens Attempts*) they call the presumed *Will* and *Consent* of the People: According to which (say they) the *Succession* of the Crown is to be directed. And by these *Arts* they do very much *impose* upon their unwary Readers.

D To this *History* of *Succession* belongs the Act of the *Thirteenth* of *Elizabeth*, cap. 1. Intituled, *An Act whereby certain Offences are made Treason*; which, as many *Great* and *Learned* Persons think, was, upon the *Debate* and making of it, intended and designed to declare a *Power* in the *Queen* and her *Successors* for ever, by *Authority* of *Parliament*, to make *Laws* and *Statutes* of sufficient force and validity, to limit and bind the *Crown* of *England*, and the *Descent*, *Limitation*, *Inheritance* and *Government* thereof.

E Sir *Edward Coke* [1] says, *Many Acts of Parliament are hardly to be understood, unless the History of that time be joyned thereunto*. This *Parliament* met [2] *April* 2. 1571. 13 *Eliz.* and was dissolved [3] *May* 29. following.

F This *Parliament*, we see, was holden in the beginning of the Year 1571. Some Years before, but most especially in the Year 1570. immediately preceeding, there had been many *Practices*, and *Seditious* and *Treasonable Contrivances* against *Queen Elizabeth*, by *Foreign*, as well as *Domestick* Enemies: By the *Pope* and *King of Spain*, *Duke of Guise* in *France*, *Duke d'Alva* in the *Netherlands*, the *Fugitive English*, &c. abroad: And at home, frequent *Conspiracies* to deliver the *Queen of Scots* out of *Prison*, *Attempts* upon the *Queens Person*, the

Rot. Parl.
13 Eliz. n. 1.

[1] 4 Instit.
fol. 52.

[2] Publ. Stat.
[3] Com.
Journ. mart.
29 Mart. f. 39.

See Camden's
Eliz An. Dom.
1568, 1569,
1570, 1571.

Rebellion in the North by the Earls of *Northumberland* and *Westmerland*, the Match of the Duke of *Norfolk* with the Queen of *Scots*; [4] *Ibid.* f. 171 [4] her Usurpation of the Crown of *England*, with the Title and Arms thereof; and the Bull of Pope *Pius* the Fifth, by which he declared her a Heretick, and for pretended Heresie, Anathematized her, &c. and by his Usurped and only pretended *Papal Authority* deprived her of her Title, Dominions and Kingdoms, and absolved all her Subjects from their Obedience and Allegiance.

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[1] *Ibid.* 149. All these, but [1] more particularly the Pope's Bull, and the Conspiracy of *Norfolk*, created much trouble in the mind of Queen *Elizabeth*: And she sent to the Queen of *Scots*, *Cecil* and Sir *Walter Mildmay*, to consult with her by what means most conveniently the Dissentions of *Scotland* might be compounded, her self restored, and Queen *Elizabeth*, and her young Son, safe and secure.

B

Amongst the Propositions made to obtain these ends, these were two, [2] *Ibid.* f. 1570. That the Queen of *Scots* should renounce her Title and Claim, as long as Queen *Elizabeth*, and the Children lawfully born of her Body should live. That if the Queen of *Scots* should attempt any thing by her self, or any other, against Queen *Elizabeth*, she should, ipso facto, forfeit all her Right and Title she claimed to *England*.

To which the Deputies of the Queen of *Scots* Lientenants answered, That the Title should be renounced as long as Queen *Elizabeth* lived: And That the Queen of *Scots* should be excluded from all Right of Succession in *England*, if she attempted any thing against the Queen of *England*'s Right, so as if the Queen of *England* would be likewise bound in some equivalent Penalty if she should attempt any thing against the Queen of *Scots*.

C

There was no Agreement upon these, and other Propositions then made, because the *Scots* Deputies thought them too hard and severe, and not to be assented unto without the greatest Inconveniencies imaginable.

D

And thence followed new Designs and Contrivances for the Relief of the Queen of *Scots*, &c.

The Marriage of the Duke of *Norfolk* with the Queen of *Scots* was first propounded [3] by her great Enemy, the Regent *Murray*; and afterwards carried on by the Earls of [4] *Arundel*, *Northumberland*, *Westmerland*, *Sussex*, *Pembroke* and *Southampton*, with many Barons, and by the Earl of *Leicester* himself; who, with his own hand [5] drew up Articles which he sent to the Queen of *Scots*, in number six; two whereof were, That she should do nothing which might be prejudicial to the Queen of *England*, or to the Children born of her, in the Succession of the Kingdom of *England*. That she should revoke her Assignment of the Kingdom of *England* to the Duke of *Anjou*. The occasion of this Article was, [6] that *Murray* had reported that the Queen of *Scots* had made over her Title to *England* to the Duke of *Anjou*, and that her Conveyance was confirmed at *Rome*: which the Queen utterly denied. And it was afterwards discovered to be an Invention of *Murray*'s to alienate Queen *Elizabeth*'s mind from her.

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To obviate all these *Mischiefs* and *Designs*; The Queen and her private Ministers, the Earl of *Leicester*, Lord *Burleigh* and Sir *Francis Walsingham*, thought fit to improve the *Insinuation* and *Overture* of a Match [1] made by the Queen Mother of *France*, but not very vigorously pursued until the Year 1571. 13 *Eliz.* and in the time of the *Sitting* of the Parliament of that Year, though 'twas not in that Assembly or their Journals taken notice of, it being * secretly managed by order of the Queen, by her two then great Confidants, the Earl of *Leicester*, and the Lord *Burleigh*, by the Mediation of Sir *Francis Walsingham*, then Ambassador in *France*. Whether *Leycester* meant honestly and seriously in this *Affair*, I cannot determine; * he made great Professions that he did; the then Posture of *Affairs* being represented to him by *Walsingham*, in a Letter dated from *Paris*, May 14. 1571. in these Words.

[1] *Ib.* f. 107.

* Complete Ambassador, Queens Letter, f. 66. Burleigh's Letter, f. 69. Queens Letter, f. 83. & Qu. Let. f. 106. * *Ib.* f. 105, 108. June 7. 1571. *Ibid.* f. 96.

B **M**Y very good Lord, The Protestants here do so earnestly desire this Match, and on the other side the Papists do so earnestly seek to impeach the same, as it maketh me the more earnest in furthering of the same. Besides, when I particularly consider her Majesties Estate both at home and abroad, so far forth as my poor Eye-sight can discern; and how she is beset with Foreign Peril, the Execution whereof stayeth only upon the Event of this Match; I do not see how she can stand if this Matter break off. No particular Respect (as God is my Witness) moveth me to write thus earnestly, but only the Regard I have to God's Glory, and Her Majesties Safety.

Your Lordships to command,

Fr. Walsingham.

D How necessary this Match was at this time, for the safety of the Queen and Nation, we have the Opinion of this great Statesman and Minister; with whom *Leycester* and *Burleigh* concurred in Opinion, as appears by their several Letters relating to these Transactions. And since the *French*, in the Sixth Article delivered in by the *French* Ambassador the thirteenth of April, 1571. propounded the Succession to be secured to the Issue of this Marriage, according to the *Laws* and *Customs* of the Realms; to which Queen *Elizabeth*, according to the common Opinion of the Understanding Men of those Times, not having Right by *Inheritance* or *Proximity of Blood*, might think by this Act of Parliament (that in effect doth grant the general Surmise) to make good her Title, and by this way and means to notifie it to be according to the *Laws* and *Customs* of the Realm. For the Duke of *Anjou* could not but have notice of the pretended *Defectiveness* of her Claim, though not mentioned in the Treaty; and therefore this might haply be done, as much as could be, to meet with, and satisfy that Objection, if it should be made, and that this might be a private, though none of the great Considerations, of procuring and passing this Act. He that will but observe these Particulars of History, and will take the pains to compare them with this Act, may easily perceive it was made as a Provision against such things, pretences, and attempts for the future, during Queen *Elizabeths* Reign, as had then been done, used, and practised: it being then doubted

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whether

whether the *Laws* and *Statutes* of this Realm then in force, were sufficient for the Preservation of the Queens Person.

* Sabbati, 21
Apr. 1571.
fol. 18. b.

The Title of the Act is, *An Act whereby certain Offences are made Treason.* And the Bill in the Commons * Journal was called, *A Bill for Treasons.*

The Preamble upon the Parliament-Roll is, *Forasmuch as it is of some doubted, whether the Laws and Statutes of this Realm, remaining at this present in force, areailable and sufficient enough for the Surety and Preservation of the Queens most Royal Person, in whom consisteth all the Happiness and Comfort of the whole State and Subjects of the Realm, which thing all dutiful, faithful, and loving Subjects ought and will, with all careful Study and Zeal, consider, foresee, and provide for; By the neglecting and passing over whereof, with winking Eyes, there might happen to grow the Subversion and Ruine of the Quiet and most happy State and present Government of this Realm, which God defend.*

* Raft. Stat.
tit. Treasons,
n. 27. f. 554. a.

Therefore * it was Enacted, Declared, and Established, That if any Person or Persons whatsoever, within the Realm or without, should compass, imagine, invent, devise, or intend the Death or Destruction, or any Bodily harm, tending to Death, Destruction, Maym, or Wounding of the Person of Queen Elizabeth, or to Deprise or Depose her of or from the Stile, Honour, or Kingly Name, &c. or to Levy War against her Majesty within the Realm or without, or to move or stir any Foreigners or Strangers with Force to Invade this Realm; or if any Person or Persons whatsoever shall maliciously and advisedly declare and publish, That Queen Elizabeth during her Life, is not or ought not to be Queen of England, &c. or, That any other Person or Persons ought of Right to be King or Queen of the said Realm: or, That shall maliciously and advisedly set forth and affirm, That Queen Elizabeth is an Heretick, Schismatick, Tyrant, Infidel, or Usurper: That then all and every such said Offence and Offences shall be taken, deemed, and declared, by the Authority of this Act and Parliament, to be High Treason.

Ibid. b.

And be it also Enacted by the Authority aforesaid, That all and every Person and Persons, of what Degree, Condition, Place, Nation, or Estate whatsoever they be, which shall at any time in the Life of Queen Elizabeth, in any wise claim, pretend, utter, declare, affirm or publish themselves, or any of them, or any other than Queen Elizabeth, to have Right or Title to have and enjoy the Crown of England during or in her Life-time, or shall usurp the same Crown or Royal Style, Title, and Dignity, during or in her Life-time; or shall hold and affirm, That she had not Right to hold and enjoy the said Crown, or shall not (after demand) effectually acknowledge her to be in Right, true and lawful Queen: They and every of them so offending, shall be utterly disabled during their Natural Lives only, to have or enjoy the Crown or Realm of England, or the Style, Title, or Dignity thereof, at any time in Succession, Inheritance, or otherwise, after the Decease of the Queen,

Queen, as if such Persons were naturally dead: Any Law, Custom, Pretence, or Matter whatsoever to the contrary notwithstanding.

A And be it further Enacted, That if any Person shall, during the Queens Majesty's Life, maintain, hold and affirm any Right in Succession, Inheritance, or Possibility, in or to the Crown or Realm of England, or the Rights thereof to be in any such Claimer, Pretender, Utterer, Declarer, Affirmer, Usurper, Publisher, or Not-acknowledger, shall be a High Traytor, and suffer and forfeit as in Cases of High Treason.

Ibid. f. 554. b.

B And for the Confirmation and making good what had in this Law been hitherto Enacted, as much as might be, it was further Enacted, That if any Person should in any wise hold and affirm, or maintain, That the Common Laws of this Realm, not altered by Parliament, ought not to direct the Right of the Crown of England; or, That our Sovereign Lady Queen Elizabeth, with and by Authority of the Parliament of England, is not able to make Laws and Statutes of sufficient force and validity to limit and bind the Crown of this Realm, and the Descent, Limitation, Inheritance, and Government thereof; or, That this present Statute, or any part thereof, or any other Statute to be made by the C Authority of the Parliament of England, with the Royal Assent of the Queen, for Limiting of the Crown, or any Statute for Recognizing the Right of the said Crown and Realm to be justly and lawfully in the most Royal Person of the Queen, is nor, are nor, or shall nor, or ought not to be for ever of good and sufficient force and validity, to bind, limit, restrain, and govern all Persons, their Rights and Titles, that in any wise may or might claim any D Interest or Possibility in or to the Crown of England, in Possession, Remainder, Inheritance, Succession, or otherwise howsoever: Every such Person so holding, affirming, or maintaining during the Life of the Queens Majesty, shall be judged a High Traytor, &c. And every Person so holding, affirming, and maintaining, after the Decease of the Queen, shall forfeit all his Goods and Chattels.

Ibidem.

This Clause was mainly intended against the pretended Authority of the Pope, by which he deposed her.

E This Statute was a peculiar Law made for the Preservation of Queen Elizabeth's Person and Title; and this last Enacting Clause and Paragraph was made to strengthen and confirm the former part of the Statute, which was a Provision and Security against such Pretences and Practices as were enumerated in the preceeding Historical Account.

F And if we consider how much (if not altogether) her Title to the Crown depended upon Statute-Law, and how Questionable her Birth-right was generally reputed to be, no man can much wonder, if for her own advantage and safety, she attributed more to an Act of Parliament than otherwise she would have done. She was necessitated to take this course, to establish her self against the Pretences of the Queen of Scots, when her Birth-right could not do it, it being very doubtful whether she was Legitimate, considering the Proceedings in the Divorce of Queen Katherineine, Marriage of her Mother, and her Mothers

* 28 H. 8. c. 7.
Pulc. Stat.

thers *Confession* * to *Archbishop Cranmer*, when the Statute was made for the declaring the Marriage null and void between *Henry* the Eighth and *Anne Boleyn*, by which Statute she was also solemnly *Bastardized*.

* 1 Eliz. c. 3.

Ibidem.

And although *Queen Elizabeth*, at the entrance upon her Government, was acknowledged to be * *rightly, lineally, and lawfully Descended* from the *Blood Royal* of this Realm, which if true, had been a sufficient Title, She being then the *only remaining Issue* of *Henry* the Eighth; yet her right was recognized as depending upon the *Laws* and *Statutes* of the Realm, and by express mention of, and reference to the *Thirty fifth* of *Henry* the Eighth; by which Statute the Crown was settled upon her, and the *Heirs of her Body* lawfully begotten; in several places whereof, she is by the King her Father, *implicitly reputed*, and *declared illegitimate*, and the *settlement* in that Act is made to her, as *not being lawfully begotten*, or having right to inherit.

Ibidem.

In the first of her Reign before cited, when the Crown was declared to be vested in her, and that *Declaration* and *Recognition*, as also the *Limitation* and *Declaration* of the *Succession* of the Imperial Crown of this Realm mentioned and contained in the Act of 35 Hen. 8. were to stand, remain, and be the *Law of this Land* for ever. Which notwithstanding, when *Mary Queen of Scots* had claimed the Crown by right of *Inheritance*, and had spread abroad that Title unto it, and also the Title of the *House of Suffolk*, and other Titles were whispered up and down; the Act of 35 Hen. 8. or this Act of *Recognition*, were not thought sufficient to secure *Queen Elizabeth*. Then was this Act in the Thirteenth of her Reign, made meerly either to create or strengthen her Title, and not to *Exclude* the *Queen of Scots* from the SUCCESSION, unless she attempted any thing against her, or laid Claim to the Crown, which was also in its own nature a securing Clause to *Queen Elizabeth*.

But the great Clause of *Security* to *Queen Elizabeth* in this Act, was that Clause by which it was made *Treason* for any man to affirm, that she by Authority of Parliament, could not make *Laws* and *Statutes* to bind the *Succession* of the Crown, or that this Act or other Laws to be made by the Parliament of *England* by her Royal assent, for limiting the Crown, and recognizing the Right to be lawfully and justly in her Person, is not, are not, or shall not, or ought not to be for ever, of good and sufficient force. This Clause was levelled against the Opinion, That the *Queen of Scots* had the best Title; which began to spread, and gain much credit, as well amongst the *Nobility* as *Commons*: By all which it is manifest, this whole Act was but Temporary; and therefore we may note, with *Pulton*, that it expired with *Queen Elizabeth*; and it was no Act of *Exclusion*, but a Law only to secure her Person, and to make and confirm unto her a Title, which without Statute-Law was in it self at least doubtful. And the new Clause which was added, That it should be *High Treason*, during her Life, for any Person to affirm, she by Authority of Parliament had not Power to bind the Crown and *Succession* thereof; or, That the Right of the Crown and Realm was not justly and lawfully in her Royal Person; cannot affect the Title of a lawful Successor by *Inheritance*, nor be brought

brought or made use of as a *Precedent* to exclude him from the *Succession*.

But it may be said, There is a great Forfeiture inflicted upon every Person holding and affirming, *after her Decease*, That Queen Elizabeth and a Parliament could not limit the *Succession*, and fix the Crown upon her own Head.

A

This Clause could take no effect after her death, and therefore was added to preserve her Memory from being defamed after her Death, or slanderously charged with the *hainous Crime of Usurping* the Crown, which must have been the *inevitable Consequence* of affirming she and her Parliament could not limit the *Succession*.

B

For she valued much her *Credit* and *Reputation*, and would seem to maintain still, that she acted nothing against the Queen of Scots; and therefore the Law is made in *general Words*, against every Person or Persons whatsoever, of what Degree, Place, Nation, or Condition whatsoever, that should affirm she was not in Right true and lawful Queen, or that should claim the Crown, &c.

C

In the Point of *Succession* she could never be brought expressly by Name to exclude the Queen of Scots, or name any other Successor, as is clear from these several Passages in *Camden*.

D

Dudley, desirous by all means to oblige and obtain the Favour of the Queen of Scots, accused the Lord Keeper Bacon to the Queen, That he had intermeddled against the Queen of Scots in the matter of *Succession*; for which he lost the Queens Favour, and was, with much ado, at last restored to it again by the Mediation of Cecil, * upon which our Author says, Certainly the Queen never heard any thing more unwillingly, than that the Right of *Succession* should be called in question or disputed.

Camd. Eliz.
f. 73. A. D.
1564.

* *Ibidem*.

E

The same Year Queen Elizabeth hearing of a Match like to be between the Queen of Scots and Henry Lord Darcy, to prevent it, advertised her, by her Lieger Randolph, That that Marriage was generally so disliked by all the English, that she had Prorogued the Parliament to another time, against the minds of her Council, lest the Estates of the Realm being incensed, should even for this cause Enact somewhat against her Right to the *Succession*. Which, that it might not be done afterwards, she recommended Leycester unto her for a Husband, whom chiefly for that Reason she had created Earl.

Ibid. fol. 75.

Jus Successionis.

F

In the Year 1566. a Parliament was called to meet on the First of November. They began to Debate roundly about the *Succession*; and the Earls of Pembroke and Leycester, and Duke of Norfolk, thought that an Husband was to be imposed upon the Queen, or a Successor publicly designed by Act of Parliament, even against her will. Whereupon they were excluded the Presence-Chamber, and denied Access to the Queen; but they soon submitted themselves to her, and obtained Pardon. Yet the Upper-House did by the Lord Keeper Bacon, advise, move, and pray her to Marry, and to appoint a Successor, if she or her Children should die without Issue.

Ibid. fol. 83.

Ibid. & f. 84.

But

Ibidem.

But some in the Lower-House handled these things more tumultuously. Bell and Monson, great Lawyers, Dutton, Paul Wentworth, and others, who *grated* upon the Queens Authority too much, and amongst other things maintained, That Kings were bound to design a Successor. At last they offered her far greater Subsidies than they were wont, upon condition that she would design a certain Successor. She absolutely refused that extraordinary Offer, and accepted an ordinary Sum, commending their Affection.

A

* Ibid. f. 89.

The last day of the Parliament she made a Speech, and gave the busie Men a smooth Reprehension. * I find (saith she) that in this Parliament DISSIMULATION hath walked up and down, masked under the Vizard of LIBERTY and SUCCESSION. Some of your Number there are, that thought it LIBERTY to dispute of the SUCCESSION, and that the Establishment of the same is absolutely to be granted or denied. If I had granted it, these Men had had their desire, and had triumphed over me; but if I had denied it, they thought to have moved the Hatred of my People against me, which my greatest Enemies could never yet do: But their Wisdom was unseasonable, and their Counsels overhasty, neither did they foresee the Event: Yet hereby I easily perceived who inclined toward me, and who were averse unto me, &c.

B

* Ibidem.

Upon this Speech Camden makes this Remark. * Thus a Womans Wisdom suppressed these Commotions, every day so qualified them, shining clearer and clearer, that very few besides such as were seditious and fearful, were troubled about a Successor. And certainly most men, whatever they pretend, have no more sense of Publick Matters, than what concerns their own Private.

C

* Mercur.
28 Maii, 1572.
fol. 53.

To these Testimonies of the Queens a version to pass a Bill of Exclusion of the Queen of Scots, may be added a very clear and convincing one out of the Journal of the House of Commons, in the Fourteenth of her Reign, after the passing this Act, which is said so much to favor a Bill of Exclusion. Mr. Treasurer of the Household, Sir Francis Knolles, from the Queen, advised the House of Commons to go forwards against the Queen of Scots with a second Bill; * and that her Majesty minded not by any Implication or drawing of Words, to have the Scottish Queen either inabled or disinabled to or from any manner of Title to the Crown of England; and willed, That the Bill be drawn and penned by her Learned Counsel, before the same be treated of in the House; and that in the mean time of bringing in of that Bill, the House enter not into any Speeches or Arguments of that Matter.

D

E

* Compleat
Ambassador,
fol. 219.

With the Journal agrees a Passage in the Lord Burleigh's Letter * to Sir Francis Walsingham the Queens Ambassador in France, July 2. 1572. two days after the Parliament was Prorogued.

F

Now for our Parliament, I cannot write patiently: All that we laboured for, and had with full Consent brought to fashion, I mean, a Law to make the Scottish Queen unable and unworthy of Succession of the Crown, was by her Majesty neither assented to, nor rejected, but deferred until the Feast of All Saints. But what all other good and wise Men may think thereof, you may guess. Some here have, it seemeth, abused their Favour about her Majesty, to make her self her most Enemy.

God

God amend them. I will not write to you who were suspected. I am sorry for them; and so would you also, if you thought the suspicion to be true.

Your assured Loving Friend,
Will. Burleigh.

A This Parliament did not meet again until the Eighth of February, in the Eighteenth year of the Reign of Queen Elizabeth, unless there be any better Authority than Mr. Pulton's, in his Statutes, to make it appear that it did. And although there never was greater fear and danger of the Introduction of Popery and Arbitrary Power, by reason of the Queen of Scots Religion, her Pretences and Practices, and the expectation of great Assistance from abroad and at home, than at this time, yet we find not those that were suspected to have advised the Queen in this great Affair, to have been branded by Publick Vote, as Betrayers of the Queen, the Protestant Religion, and the Kingdom of England, Promoters of the Scottish Interest, and Pensioners to Scotland.

B This is a faithful Relation of the Succession. Whether I have fairly or partially cited the Records and Histories I have used, any Man (if he please) may inform himself. Whether it be expedient, just or lawful to go about to interrupt the lawful Succession by Birth-right, or to endeavour to break, or vacate the Laws and Customs of the Nation, by which it is Established and Governed, without any Motion, Solicitation, Procurement, or Intention of the present true and lawful King by Birth-right, for and upon the Suggestions in the Bill mentioned, I leave it to the Consideration of all just and sober Men.

C Which at most were but Jealousies and Presumptions, and yet were the Foundation or Ground (if it could have been done) to have made the Duke for ever incapable to inherit, possess, or enjoy the Imperial Crown of England, &c. and if at any time he had claimed or endeavoured to possess himself of it, he should be adjudged Guilty of High Treason; and all such as should any way maintain (his true, just, and most lawful Title) or assist him in obtaining those Rights which were due to him by the Laws of God and Man, were to incur the same Guilt and Punishment. And were also the Motives for his perpetual Banishment, after the Fifth of November, 1680. under the Pains, Penalties, and Forfeitures, as in Case of High Treason, if he should return; and the like to any Persons whatsoever, that should be aiding or assisting unto his Return.

D And then it was to be Enacted and Declared, that it should and might be lawful, To and for any Magistrates, Officers, and other Subjects whatsoever, within the Kingdoms of England and Ireland, and the Dominions and Territories thereto belonging, (a strange, general, and legal Commission for Rebellion) and that they should be enjoined, and required to apprehend and secure James Duke of York, and every other Person offending in any of the Premises, which were many (as appears by the Bill it self) and with him or them, in Case of Resistance, to fight; and him or them by force to subdue; for all which actions, and for so doing, they were and should be by virtue of that Act, saved harmless and indemnified.

E This was a Contrivance and Design, to ruine the Government and destroy it, which any man, that had duely observed the Practices of these sort of men, about forty years before, might have seen through, with a very small light, though the Managers of it thought it so

dark and *Mysterious*, as that it was totally *invisible*. The *Net* was spread, and the *Snares* laid to catch all *Loyal Subjects*, and such as thought themselves bound in Honor and Conscience to preserve the *Laws* and *Government* of the Nation.

After the time limited for the Duke's Banishment, had been over, and he gone, it was but *accusing* as many as the *Contrivers* of the Bill pleased, for holding *Correspondency* with the Duke, with *intention* to bring him in again from his Banishment, who either by their quiet *Submission* to Rapine, or Plundering, and Imprisonment, were to be ruined and put to death at their pleasure; or in case of *Resistance*, to be fought withall, and subdued, and if they were, then to *undergo* the same Destruction. For here was an *unheard of unlimited Power* given to *Magistrates* and *Officers*, (who if this Act had once passed, they would have taken care, should have been for their purpose) and to the People to get together, and with *Force* and *Arms*, to have executed whatsoever *Seditious* men had infused into them; who would have soon instructed them in the Principles and Doctrine of *Calvin*, the *Presbyterians* and *Jesuits*, of *Deposing* and *Murdering* of Kings and Princes; which *Doctrine*, when the People had put in Practice, and gone on *step by step*, until they had arrived at a *perfect*, *cruel*, and *merciless* Rebellion, and destroyed the established Government (though many might see the *Cheat*, and by what *Arts* they were drawn in) yet then they must (for their own Security) have thrown themselves upon their *Directors* and *Managers*, and must have submitted to such an *Arbitrary Power*, and such an *Aristocratical* or *Democratical Tyranny*, or one compounded of both kinds, as they should have thought fit to have instituted. All which I think to have been made most manifest, by the since Treasonable Actions of many of those which *furiously* drove on the *Passing* of the Bill.

And for these very Reasons it was, that in the *Beginning* of this Treatise, I noted the Opinions of the *Presbyterians* about *Monarchs*, who if they conform not to their *Humours* and *Monarchies*, which if not modelled according to their *Fancy* and *Design*, they traduce and bring the *Subjects* into an evil opinion of them, and then set their *Engines* to work; The *inferior Magistrates* and *Officers*, the People or *Multitude*, or their *Representatives* in Publick Assemblies, to batter down, and overturn them; under the pretence of setting up and defending pure Religion, according to the Scriptures, and Preservation of Liberty and Property.

They that think they may lawfully rise up against the chief *Magistrates*, and reform what they judge, or will have to be amiss in the Government without his Consent, when they have Power to do it, and if need be, depose him; will also think, when they have Power, they may alter the *Succession* when, and as often as the *humour* of the *Rabble* moves that way, and *Seditious* men shall insinuate and persuade it, as necessary, and dispose of the Crown to whom they think fit, if they shall please to continue the Monarchy; That they may do the latter, follows directly from their doing the former, which is the *Foundation* of that *Superstructure*. These *Dangerous*, *Seditious*, and *Treasonable* Opinions and Positions of *Presbyterians*, *Jesuits*, &c. which are scarce possible to be practised, without *Bloodshed* and horrid *Confusion* in any *Hereditary*, or well *Established Monarchy*, are taken up and pursued, by *Atheists*, men of loose, or no Principles or Religion; *discontented*, *malitious*, *proud*, *haughty* and *ambitious* self-conceited

conceited men, and such of good *Natural parts*, as have broken their Fortunes, who set up for Politicians, and make it their Business to infuse these Notions into the Heads of the Vulgar, and propagate them upon every opportunity, and for that end wandering from place to place, to find out People, and an occasion for their purpose, designing to satisfy their particular *Appetites*, their *mutinous* and wicked Humours, or repair or better their ruin'd Fortunes, by Blood and Violence; blaming all men that are not of their Temper, and things too, unless according to their Conceptions, which are most to be blamed.

But after all, there remains a mighty, and as those think, that would have it so, an *unanswerable Objection*, to be satisfied, and is to be found in Mr. *Pun's* Postscript, p. 31. as here it followeth. Those that are truly Loyal to our present Sovereign, have reason to recognize with high satisfaction, that such a Power of altering and limiting the Descent of the Crown, is duly lodged in the King and States of the Realm: For under the Authority of an Act of Parliament of the Kingdom of Scotland, we derive our selves to the Happiness of his Government, and he his Title to the Crown of Scotland, which drew to him the Imperial Crown of England. For Robert Stewart, first King of Scotland of that Family, lived in Concubinate with Elizabeth Bure, and by her had three Sons, John, Robert, and Alexander; afterwards he married Eufame Daughter to the Earl of Rothe, and after was Crowned King of Scotland: He had by her Walter Earl of Arbol, and David Earl of Strathern: When Eufame his Wife died; he married Elizabeth Bure.

After that, by one Act of Parliament, he made his Natural Children first Nobles; that is to say, John Earl of Carriche, Robert Earl of Denreith, and Alexander Earl of Buchquhane and shortly after by another Parliament, he limited the Crown in Tayl successively, to John, Robert, and Alexander, the Children of Elizabeth Bure, in Concubinate; and after to the Children of Eufame Rothe, his legitimate Children, who are to this day in their Issue by this Limitation, by Authority of an Act of Parliament in Scotland, barr'd from the Crown, and we hope ever will be, by the continuance of the Line of our most Gracious King.

Note, That though a subsequent Marriage by the Civil Law, which is the Law of Scotland, in such Cases doth Legitimate the Children of a Concubine, born before Marriage; yet it is with this Exception, That they shall not be legitimated to the prejudice of Children born afterward in Marriage, and before the Marriage of the Concubine: Besides the Reason of the Civil Law in legitimating the Children upon a subsequent Marriage on this viz. a Presumption that they were begotten affectu Maritali, which Presumption fails, where the Man proceeds to marry another Woman, and abandons or neglects his Concubine.

This is the Argument, and this Mr. *Pun's* History of Matter of Fact and Law, That Elizabeth Bure was Concubine to Robert the Second King of Scotland; That she had three Sons by him, That he married Eufame, and had by her two Sons, That after her Death he married Elizabeth Mare, and that John the Eldest Son by her was King, and reigned by the name of Robert the Third, and his Issue after him, is agreed.

But whether he was, or could be sufficiently legitimated by this Marriage, and qualified for the Succession, or whether he did really Succeed by virtue of the Marriage, or by Act of Parliament, is the Question.

P. 31.

Ibidem.

Two Scotch Historians I have seen, who do give a short Account of this Affair. Buchanan in the Ninth Book of his History of Scotland, Printed at Utrecht 1668. P. 307. in the Reign of this King, says, *Rebus primo Biennio feliciter succedentibus, Tertio ab initio Regno Anno, Eufemia Regina Hugonis Comitis Rossie filia, moritur. Ex ea Rex ternos liberos genuerat, Walterum Jernia, & Davidem Arbolie Comites, & Eufemiam Jacobo Duglassio nuptam.* Robertus non tam impatientia calibatus, quam Amore filiorum, ex Elizabetha Boza prius genitorum, ipsam uxorem duxit; Hanc enim eleganti forma Adami Mori illustri equitis filiam, adhuc adolescens vehementer amarat; ex eaque tres filios, ac duas filias suscepit, eamque * *Gisardo viro Nobili in Lothiana curaverat Collocandam; verum sub idem fere Tempus, Eufemia Regina, & Gisardo, Elizabetha Marito, defunctis, Rex sive consuetudine veteri Boze inductus, sive quod à multis traditur) ut filios quos ex ea genuerat, Legitimos faceret, matrem eorum sibi Matrimonio junxit; filios statim Divitiis & Honoribus auxit, Johannes Natu maximus Car- rida, * Robertus, Cathie, Alexander Buchanie Comites sunt facti, nec hac munificentia contentus, Comitibus ad Sconam indictis, obtinuit ut præteritis Eufemie liberis, in Rege creando gradus ætatis observarentur. That is, In the first two years of King Robert the Second, things succeeded happily, in the Third Eufeme the Queen, Daughter of Hugh Earl of Rossie died, by her the King had three Children, Walter Earl of Jern, David Earl of Arhol, and Eufeme married to James Duglass. Robert not so much for the impatience of a single Life, as for the love of the Children he had begotten of Elizabeth Boze married her, for when he was a young man, he had vehemently loved this very Beautiful Woman, the Daughter of Adam More an Illustrious Knight, by her he had three Sons and two Daughters, and had married her to one Gisard a Noble-man in Lothian, but about the same time, Eufeme the Queen, and Gisard the Husband of Elizabeth Boze died. The King, either induced by the old Familiarity that had been between them, or which is reported by many, That he might make Legitimate the Children he had by her, married her, and bestowed upon them Honor and Riches, John the Eldest, was made Earl of Carris, Robert of Mensteth, and Alexander of Buchan. Nor content with this Munificence, he called a Parliament at Scone, and obtained, That the Children of Eufeme being postponed, in creating a King, Priority of Age should be observed.*

The other Account of this Affair, Hector Boethius gives us, in his History of the Scottish Nation, Book the 16th, f. 328. a. n. 10. and relates it thus, * *Sed priusquam Eufemiam Robertus duxisset uxorem, consuetudinem cum Elizabetha filia Boze Quir Equitis Aurati habuerat, qua tres illi filios peperit, Johannem qui Roberto p. tri in Regnum postea successit, Robertum & Alexandrum, & duas filias. Tertio Regni anno Roberti, Eufemia uxor ejus fato functa est. Tum Robertus Elizabetham uxorem duxit, ut quas ex ea liberos suscepit (impendio enim eos amabat) legitimos redderet. Eodem Anno filios Agnis donavit, Johannem Comitem Caricie effecit, ac Scotie Senescallum, Robertum Comitem Fife & Mensteth, Alexandrum dominum Badennothæ, Davidem ex Eufemia primogenitum Comitem Ernevalle, i. e. Strabern, Walterum Comitem Arbolie; * *Ceterum rationem Successionis hoc modo instituit, nempe ut Johannes primus omnium succederet, quo defuncto sine prole mascula, Robertus, qui si sine filio quoque decederet, Alexander in locum ejus subiret: Quod si eadem ille fortuna nullo**

* This is not to be found in Hector Boethius.

* The Titles of these are mistaken, they are otherwise in the Act of Parliament.

* This Relation agrees not with the Act of Parliament and Charters cited by Sir George Mackenzie.

* r. 282. n. 40.
* Ibid Histor. Hect. Boeth. f. 328 b. lin. 2. &c.

* This Declaration of the Succession agrees with the Act of Parliament.

nullo relicto filio, ex hac vita excederet, tum **David**; si vero, & illum idem casus sequeretur, tum ad **Walterum** Regni perveniret Successio, verum ut sunt res Mortalium caduca, si ex omnibus illis Mascula nulla relinqueretur soboles, proximus à sanguine Regis quisquis ille foret, in Rem Scoticam succederet.

Atque hæc sunt in Publico præter Regni Consilio celebrato **Scone**; Juratumque ab omnibus est eam Constitutionem perpetuo se servaturos, tutaturosque.

A In English thus, Before **Robert** married **Eufeme**, he had familiarity, and accompanied with **Elizabeth** the Daughter of **Adam** **Quir** Knight, by whom he had three Sons, **John** which succeeded his Father **Robert** in the Kingdom, **Robert** and **Alexander**, and two Daughters. In the third year of the Reign of **Robert**, **Eufeme** his Wife died. Then he married **Elizabeth**, that he might Legitimate the Children he had by her, for he loved them beyond measure. The same year he gave his Sons Estates, he made **John** Earl of **Caria**, and Steward or Seneschal of Scotland, **Robert** he made Earl of **Fife** and **Benteth**, **Alexander** Lord of **Badzenoth**, **David** his eldest Son by **Eufeme**, he made Earl of **Strathern**, and **Walter** Earl of **Athol**: But he ordained the Succession after this manner. That **John** should first succeed, and after his Death, without Issue Male, **Robert**, and after him, if he left not a Son, **Alexander**, and if he happened to dye without Issue Male, then **David**, and if his Case should be the same, then **Walter**; but as it may happen, if none of them have Issue Male, the next of the Royal Blood, who ever he be, shall succeed in the Kingdom of Scotland.

These things were done in a Publick Council of the Nobility or Great Men of the Kingdom, celebrated at **Scone**; and they all swear perpetually to observe and defend this Constitution. This King **Robert** began his Reign Anno Domini 1371. This Council was holden at **Scone** in the third year of his Reign, which was Anno Domini 1373. or 1374.

D We see in both these Historians, that the Succession was grounded upon Legitimation, and that upon Marriage, according to the Law and Constitution of Scotland, which Mr. **Hunt** says, is the Civil Law. So that the Succession was not gained or established by Act of Parliament, if any such were, but by Law, and the Act of Parliament was grounded upon that Law, and was only a Confirmation of it. But says Mr. **Hunt**, this could not be in this case, for the Foundation of Legitimation by the Civil Law, which was, **Affectus Maritalis**, was here destroyed, by King **Robert's** Marriage with **Eufeme**, for where Children have been legitimated by subsequent Marriage, it was presumed they were begotten **Affectus Maritalis**, and that was to continue without Interruption, until the time of Marriage. This is the strength of Mr. **Hunt's** Argument; but the Law was otherwise, for by that it was only required, that they were both single Persons, and Chast, that is, that neither the Man kept or enjoyed any other Woman, nor the Woman enjoyed or kept company or lived with any other Man, during their Concubinate. The Issue

E or Children begotten between such Persons, was accounted, and had the name of natural Issue, or Children, and were only capable of being Legitimated by the Civil or Canon Law, and these were Conditions, upon which Legitimation by subsequent Marriage, and Right of Inheritance was grounded, all other Children begotten by married men, upon single Women, or by men that kept, or

See Forsterus, de Success. lib. 1. tom. de Concur. bin. Tractat. Tractat and al. most all Civilians.

had

* i. e. Mulier,
innupta libera,
sola. & c.

had many Concubines, or upon Women that accompanied with more Men than one, were esteemed spurious, and incapable of Legitimation by Marriage. But the former might, though there were just Children after begotten upon another Woman in lawful Marriage: The Case is in *Valentin Forsterus de Successionibus*, l. vi. cap. 23. Thus put. A Man hath a * Concubine, and Children by her, he Marries another Woman, and hath Children by her, the Wife dies, and he Marries the Concubine: The better Opinion in the Civil or Imperial Law is, That the Marriage with the Concubine, Legitimizes her Children, notwithstanding the former or intermediate Marriage, and that they shall succeed in, and inherit the Father's Estate; And although the *Affectus Maritalis*, which the Civil Law presumes to be between the Man and his Concubine, was for a time diverted by an intermediate Marriage; yet that being dissolved, or the Wife being dead, the same affection may be reintegrated and renewed with the same Concubine; which by the Imperial or Civil Law, was sufficient to warrant the Legitimation of the Concubines Children upon his Marriage with her, *Ibid. s. 23. n. 17*. The same Opinion is in the same Case, after a full Discussion of it, to be found in *Tractat. Tractatum. Tom. 8. Part 2. f. 78. n. 43, 44, &c. De Legitimatione*.

If the Law at this time in Scotland, had been the same with the Law of England, Mr. Hunt's Argument might have been somewhat, though not much to the purpose, for the whole Contrivance and Management of this Affair, and the Act of Parliament was procured by the Kings Solicitation: When as this Bill concerning the Duke was contrived, and carried on by a desperate Faction in the House of Commons, which mightily alters the Case, and so doth the difference between the ancient Laws of England, and Scotland; for by the Evidence of both these Historians, as well as Mr. Hunt's Confession, Children begotten before Marriage, were Legitimated by Marriage, and made capable of inheriting, by the ancient Law of Scotland; but in England it was not so, for *Glauvill*, the antientest English Lawyer Extant, * says, That although according to the Canons and Roman Laws, a Son born before Marriage, might inherit, yet according to the Law and Custom of England he could not, nor by right so much as demand his Fathers Inheritance; and this opinion of his is confirmed and declared to be Law by Act of Parliament, in the Twentieth of Henry the Third, Stat. of Merton, Cap. 9. To the King's Writ of *Bastardy*, whether one being born before Matrimony, may inherit in like manner, as he that is born after Matrimony: All the Bishops answered, That they would not nor could not answer to it, because it was directly against the common order of the Church. And all the Bishops instanced the Lords, that they would consent, that all such as were born afore Matrimony, should be Legitimate, as well as they that be born within Matrimony, as to the Succession of Inheritance, for so much as the Church accepteth such for Legitimate; And all the Earls and Barons, with one voice, answered, That they would not change the Laws of the Realm, which hitherto had been used and approved.

Buchanan had his Relation of this Transaction from *Heitor Boethius*, but reports it not fairly after him, for he bends and warps it toward his own malicious opinion, as much as he can. That Scotland was an Elective Monarchy, in his *Tract de Jure Regni apud Scotos*, and from Buchanan or from them both, Mr. Hunt, I presume, had his History and Argument, and bends it, as Buchanan did before,

before, the Relation of *Boethius*, and fits it to patronize his opinion.

This was the Answer to Mr. *Hunt*'s Argument, supposing the Relations of matter of fact by *Hector Boethius* and *Buchanan* to have been true. But since the publishing of * *Jus Regium* by Sir *George Mackenzie*, the Kings Learned and Worthy Advocate in Scotland, and since by the means of the Right Honorable the Earl of *Clarendon* I have had the perusal of a Copy of this very Act of Parliament transmitted to him, from Sir *George*, I find their Relations to be false; For according to the then Law, *Elizabeth* *Quir* was *Robert* the Second his First and lawful Wife, and that his Issue by her were lawful Issue, and that she was Dead when he married *Eufame* the Daughter of the Earl of *Rosse*, who was his second Wife, as is clear from the Discourse in the *Jus Regium*, and right of Succession before cited, as it here immediately follows, taken out of that Treatise. And by the Act it self Printed in the Appendix, Record 18. it is evident that neither *Hector Boethius*, *Buchanan*, nor Mr. *Hunt* ever saw it.

* P. 194, 195, &c.

The Discourse of the Learned Advocate upon the Act of Parliament; The Substance whereof in English is this.

C **T**hat a Parliament being called at *Scoon* the 4th of April, Anno 1373. and third year of the Reign of King *Robert* the Second, on purpose to secure the Succession, and to prevent all Disorders that might afterwards arise in any part of the Kingdom about Titles to the Crown; It was Enacted by the said King *Robert* the Second, with the Advice and Consent of the whole Three Estates, That the Sons then born to the King by his first and second Wives, and their Heirs should in order succeed to the King in manner after specified: That is to say, that his Eldest Son by the first Marriage *John* Earl of *Carrick* should immediately succeed, as had been already declared in the preceding Parliament, and after him his Heirs; And in case he died without Issue, that his Brother, *Robert* Earl of *Monteith* the Kings Second Son of that Marriage should succeed, and his Heirs: which failing, that *Alexander*, Earl of *Badenoch*, the Kings Third Son of that Bed, and his Heirs, should Inherit the Crown; And in case that failed, that *David* Earl of *Strathern*, the Kings Fourth Son by his Second Wife, and his Heirs should succeed: And that failing, that *Walter* the King's Fifth Son, by the said Second Wife and his Heirs, should Inherit the Crown. And if it should happen that the said Five Sons and their Issue should fail, that then the next in Blood of the Royal Line should succeed. Which Act all the Three Estates did for themselves and their Heirs for ever, solemnly Swear to observe, as is more at large to be seen in the Original it self, in the Appendix Record 18.

P. 194, 195, 196, 197, 198, 199, 200, 201.

F And if the pretended Defect be true, it was a very palpable and a very undeniable one, and could not but have been unanswerably known to the whole Nation. And how can we imagine that the whole Parliament would have unanimously drawn upon themselves so dreadful a Perjury, by Excluding the Lawful Heir, against their National Oath in the Reign of King *Kenneth* the Third, whereby they swore to own always the immediate Heir, or that they would have

have entailed upon themselves a Civil War, by preferring even a questionable Heir, after the Miseries which they had lately then felt, in the Competition betwixt the *Bruce* and the *Baliol*, amongst which *Seals* the Seal of *James Earl of Douglas* is one, and how ridiculous is it to think, that he would sit and declare a *Bastard* preferable to the Brother of his own Lady, and to his own Lady who would have succeeded, if her Brothers had dyed without Succession? Which Act of Parliament does also clearly prove, that *Buchanan* did not at all understand matters of Fact in this part of the History; for he asserts that after the death of *Euphan Ross*, the King married *Elizabeth Muir*, and did by Act of Parliament obtain the Crown to be setled upon *Robert the Third*, Son to the said *Elizabeth Muir*, upon whom he also bestowed the Title of *Carrick*; All which is most false, for this Act of Parliament is dated in Anno * 1371. and King *Robert the Second* succeeded to the Crown that year, nor did *Euphan Ross* die till the third year after he succeeded to the Crown, and so not till the year 1374. and yet in Anno 1371. this Act is past, designing him Heir to the Crown, and Earl of *Carrick*, and consequently he was so designed before the death of *Euphan Ross*.

* He must mean the first Act by which *John* was declared Successor to the Crown, or the Transcriber hath dated this Act false.

I have seen a Charter granted by King *Robert the Second*, when he was only Steward of Scotland, in Anno 1365. and so long before he was King. In which Charter likewise, *John*, thereafter King, by the name of *Robert the Third* is a conjunct Disposer with him, under the expresse designation of the eldest Son and Heir. *Robertus Senescallus Scotiae, Comes de Strathern, & Joannes Senescallus primogenitus & Heres ipsius Dominus Baronie de Kyle, &c.* which Charter confirms to the Abbacy of *Pasley* several Lands disposed to them by *Roginaldus More*, Father to Sir *William More* of *Abercorn*. And I find that *David Duke of Rothsay*, was always in the Charters granted by his Father King *Robert the First* called *Primogenitus*, and he was no *Bastard*, nor can this designation be given to a *Bastard*, as is clear by *Covaruvius de Matrim.* Part 2. Chap. 8. §. 2. Num. 4. But how can it be imagined that the Monks of *Pasley* would have taken a Right from a Person as Heir to the Crown, who was not; for this would have infer'd Treason against them; beside the annulling their Right? or who could understand better the lawfulness of a Marriage than a body of Church-men living in the time, and very near to the Residence of the married Persons, and in whose Conventual Church the said King *Robert* and *Elizabeth Muir* lye buried together?

Item, I have seen in the Registers another Charter granted by King *Robert the Second*, in the first year of his Reign, with the consent of *John Earl of Carrick, Primogenitus & Heres, Alanus de Labidia terrarum de Whistlet*; and another granted by the said King, June 1. anno primo Regni, confirming to *Paul Metire* a Charter granted by the Earl of *Ross* Father to *Euphan*, wherein the said *John Primogenitus & Heres* is a Witness.

And to shew that the said *Euphan Ross* was then living when he was so design'd Heir, there is a Charter to her by the King, upon the very same day of the Lands of *Lochleven*. As also there is a Charter granted by King *Robert the Second*, the First year of his Reign, to *Alexander* his Son, and another to *John Kennedy* of the Barony of *Dalrymple*, in both which the said *John Earl of Carrick* is called *Primogenitus*, and is witness with the Earl of *Douglas*; so that he has been designed eldest Son and Heir openly, uncontrovertedly, and in all Papers, and with the consent of the Second Wife, and her Relations.

In

In the Parliament 1372. the said John Earl of Carrick, is design'd to be Lieutenant of the Kingdom, and all the Estates of Parliament Swear to own him in his Government, and which Statute is Printed amongst the * Statutes of King Robert the Second, Father to the said John, and which must be during the Marriage with Euphan Ross, for she lived three years after her Husband was King, and he Succeeded to the Crown Anno. 1371. And this also confutes Buchanan, who asserts, that he was Created Earl of Carrick after the death of Euphan Ross, and it is against all sense and reason to think that he could have been acknowledged during her life, if he had not been the true apparent Heir of the Crown, and lawful Son.

* C. 17. Sect. 2.
3. 4.

I have also seen in * Fordon's History, lib. 14. page. 73. a Charter granted by King David to the Bishops, with the consent of Robert his Nephew, and his Sons giving power to the Bishops to dispose in Testament upon their own Moveables, which before that time did by a corrupt Custom fall to the King, in which Charter the Witnesses are, Robertus Senescallus Comes de Straibern, Nepos noster Joannes Senescallus Comes de Carrii, filius suus primogenitus & Hares, Thomas Comes de Mar, Georgius de Dunbar, Comes de March, & Gulielmus Comes de Douglas; So that here is not only the attestation of the Father before he was King, naming John Earl of Carrick, thereafter King Robert the second his Eldest Son and Heir, but the attestation of the Grand-Uncle King David, who could be no wayes byassed in the affair, And here he is ranked before the three eldest Earls in the Nation, who werethen the three first Subjects therein; And it is against all sense, to think that the whole Bishops would have sought the consent of the said John as apparent Heir of the Crown, if he had not been apparent Heir. I find also that Fordon calls him when he is Crowned King, Primogenitus Roberti Secundi; Nor was there the least opposition made to his Coronation, nor to the Coronation of Annabella Drummond his Queen, (a Daughter of the House of Stob-hall, now Pearth) though both the Sons of the second Marriage were then alive. I find also, that Boetius himself acknowledges that the Earl of Marches Son George, being pursued for having Married clandestinely one of the Daughters of Elizabeth Muir, his defence was that he Married her when she was the Daughter of a private Subject, and before King Robert was King, whereas if she had been only a Bastard Daughter, it could have been no Crime to have Married her.

* That History I suppose with the additions and interpolations of Mac-callen.

I shall to this only add what I saw in Fordons Scotichronicon in the Hands of the Learned Dr. Gale Master of St. Paul's Schole, London, a Transcript whereof he at my Request made me.

Robertus Rex quando fuit Comes de Carrik duxit in Uxorem Isabellam Sororem Gartnay Comitiss de Mar, De qua genuit unicum filiam nomine Marjorie, que nupsit Waltero Sener Scoto, de qua Idem Walterus genuit unicum filium nomine Robertum Sener postea Regem. Iste Robertus Copulavit sibi de facto unam de filiabus Ade More Militis, de qua genuit filios & filias Extra Matrimonium, Quam postea impetrata Dispensatione sedis Apostolica, & optenta, Desponsavit Canonice & forma Ecclesie, Anno Domini: M C C C XLIX.

Robert the first.

This Scotichronicon, this very Book in all probality was the Book of Hector Boethius, for in the Bottom of the first leaf of this Manuscript are written these words, in an ancient Hand Different from the Manuscript it self. Collegii Abud. Ex dono Magistri Hectoris Bois primi primarii Ejusdem; and in the same hand there are many Marginal Notes throughout the Book. This agrees not with what Hector Boethius relates in his History, nor doth his report agree with the Act of Parliament; and therefore Sir John in his Genealogy of the French Kings and all that have followed him have been deceived. And Buchanan hath super-added a Malitious Fable to Hector's Relation, which he forged, or never minded this Fordon that was his own Book, nor most certainly had never taken notice of the Act of Parliament.

A Parallel or Comparison between some Citations in the Author of the *Brief History of Succession, &c.* And the Words of the Authors themselves.

Author of the Brief Hist. fol. 1. in the Margin.

Edwardum Elegerunt, Electum consecraverunt, & in Regem unxerunt. Sim. Dunelm. An. 975. f. 160.

Fol. 3. in the Margin.

Hic Robertus semper contrarius & adeo innaturalis extiterat Baronibus Regni Angliæ quod plenario consensu & Consilio totius Communitatis Regni ipsum refutaverunt & pro Rege omnino recusaverunt & Henricum fratrem in Regem erexerunt. Hen. de Knighton, c. 8. 2374.

Fol. 4. In the Notes in the middle of the Folio.

In Conventu Episcoporum, & aliorum de Regno optimatum, Mat. Westm. f. 246. an. 1153.

Fol. 4. In the Margin.

Convenerunt interim die Statuto ex Mandato Regis ad Londoniam totius Angliæ Episcopi, Abbates, Comites, Barones, Vice-Comites, Praepositi, Aldermanni cum Fide-jussoribus,

Sim. Dunelm. Anno 975. col. 160. n. 40.

Edwardum, UT PATER SUUS PRÆCEPERAT, Elegerunt, Electum consecraverunt, & in Regem unxerunt.

Hen. de Knighton, col. 2374. c. 8. c. 10.

Iste Robertus semper contrarius & adeo innaturalis extiterat Baronibus Regni Angliæ quod plenario Consensu & Consilio totius Communitatis Regni, IMPOSUERUNT EI ILLEGITIMITATEM QUOD NON FUERAT PROCREATUS DE LEGITIMO THORO WILLIELMI CONQUESTORIS, UNDE UNANIMI ASSENSU SUO, ipsi in refutaverunt & pro Rege omnino recusaverunt & Henricum fratrem ejus in Regem erexerunt.

Mat. Westm. f. 246. an. 1153. n. 10.

Rex Stephanus omni hærede viduatus præter solummodo Henricum Ducem recognovit, in conventu Episcoporum & aliorum de Regno optimatum. Quod Dux Henricus jus hæreditarium in Regnum Angliæ habebat, & Dux benigne concessit ut Rex Stephanus tota vita sua suum Regnum pacifice possideret.

Chronica Gervasii, col. 1412. lin. 4.

Convenerunt interim die Statuto ex Mandato Regis ad Londoniam totius Angliæ Episcopi, Abbates, Comites, Barones, Vice-Comites, Praepositi, Aldermanni, cum Fide-jussoribus,

- bus*, Gervas, Hen. 2. fol. 1412. And, fol. 4. in the Body of his History, says, *this was a Parliament in which Henry the Second procured his Son Henry to be declared King, together with himself, by their consent.*
- A** *bus suis timentes valde omnes. Quisque juxta conscientiam suam metuebat, nesciebant enim, Quid Rex statuere decrevisset ipsa die Henricum filium suum qui eadem septimana de Normannia venerat militem fecit, statimque eum, stupentibus, cunctis & mirantibus, in Regem ungi præcepit & coronari. Not one word here, or in all this Story of this Author, of their declaring him King.*
- Brief History, fol. 5. in the Margin.
- B** *Post tam Cleri quam Populi solennem & debitam electionem*, Rad. de Diceto, fol. 647.
- Comes Itaque Pictavorum Ricardus HÆREDITARIO JURE PROMOVENDUS IN REGEM post tam Cleri quam Populi solemnem & debitam electionem, &c.*
- Ibid. fol. 5. In the Body of the History.
- C** *King John applies himself to the People for a more sure Title [d] who being summoned together, chose him King.*
- Ibid. in the Margin, [d] Prelatorum Comitum & aliorum Nobilium infinita multitudo*, Brompt. 1281.
- D** Fol. 10. in the Body of the History.
- Exact Abridgment of Records in the Tower*, fol. 709, 710, 711, &c.
- E** *Please it your Grace to understand the consideration, Election and Petition of the Lords Spiritual and Temporal, and Commons, &c.* Cot. Rec. fol. 709. This is all considerable which he cites out of this Record.
- This is a very long Record, and this is all considerable he cites out of it; whereas the whole Title of Richard the Third from Parliament in this Settlement is grounded upon his being (as they pretended) the only true, right and lawful Heir. See what is noted of this Record, and said concerning Richard the Third in this History.
- F** Fol. 11. in the Body of the History.
- Pult. Stat. 25 H. 8. c. 22. The Preamble.*
- In their most humblewise shewn unto Your Majesty, your most humble and obedient Subjects, the Lords Spiritual and Temporal, and Commons in this present Parliament, &c.*
- Suc- C c c

Succession. They did not certainly reckon themselves bound to do a thing that was not in their Power, Stat. 25 H. 8. c. 22.

&c. That since it is the natural Inclination of every Man to provide for the Surety both of his Title and Succession, although it touch his only private Cause: We therefore reckon our selves much more BOUNDEN TO BESEECH AND INSTANT YOUR HIGHNESSTO FORESEE AND PROVIDE for the PERFIT SURETY OF BOTH YOU and your MOST LAWFUL SUCCESSION and HEIRS, upon which dependeth all our Joy and Wealth; in whom also is united and knit the only meer true Inheritance and Title of this Realm, without Contradiction.

These are some of his many wilful Mistakes; and indeed, there is scarce one Instance in the Pamphlet, that is not either falsely cited, or falsely applied.

THE

THE APPENDIX.

A Catalogue of all the *Tenents in Capite* or *Serjanty*, That held all the Lands in every County of the King, as they are to be found in *Domesday Book*, set before each County: The King is always placed first, and his and the Crown Lands Described under the first Title of *Terra Regis*, and the rest follow in their Order, according to the Numbers, as *Terra Sanctæ Trinitatis de Cantorburia*. *Terra Episcopi Londoniensis*, &c. with all their *Tenents* Names that held their *Towns, Manners, Lands, and Tenements*, under them, &c.

Record 1:

Esseffa.

- | | |
|--|--|
| <p>I Willielmus Rex Anglor.
II Sancta Trinitas de Cantorburia.
III Episcopus Londoniensis.
IV Fendum ejusdem Episcopi.
V Canonici Sancti Pauli.
D VI Abbatia de Westmonasterio.
VII Episcopus Dunelmensis.
VIII Canonici de Waltham.
IX Abbatia de Berkinges.
X Abbatia de Eli.
XI Abbatia sancti Edmundi.
XII Canonici sancti Martini Londoniensis.
E XIII Abbatia de Bello.
XIV Sanctus Walericus.
XV Abbatia sanctæ Trinitatis de Cadomo.
XVI Abbatia sancti Stephani de eodem.
XVII Abbatia sancti Andoeni.
F XVIII Episcopus Siasensis.
XIX Episcopus Herefordensis.
XX Comes Eustachius.
XXI Comes Alanus.
XXII Willielmus de Warena.
XXIII Ricardus filius Comitiss Gilberti.
XXIV Suenus de Esseffa.</p> | <p>XXV Eudo Dapifer.
XXVI Rogerus de Otburnill.
XXVII Hugo de Montfort.
XXVIII Hamo Dapifer.
XXIX Henricus de Ferrariis.
XXX Godfridus de Magna villa.
XXXI Comes de Ow.
XXXII Robertus Greno.
XXXIII Radulfus Baignardus.
XXXIV Ranulphus Piperellus.
XXXV Albericus de Ver.
XXXVI Petrus Valoniensis.
XXXVII Ranulphus frater Ilgerii.
XXXVIII Tibellus Britto.
XXXIX Roger. de Ramis.
XL Johannes filius Walerani.
XLI Robertus filius Corbutionis.
XLII Galfridus Diaconus.
XLIII Roger. Bigotus.
XLIV Robertus Malet.
XLV Willielmus de scobies.
XLVI Roger. Picaviensis.
XLVII Hugo de Gurnay.
XLVIII Willielmus Piperellus.
XLIX Radulfus de Limefeio.
L Robertus de Todeneio.
LI Radul. de Todeneio.
LII Walt. de Doai.
LIII Mathens Mauritanienensis.
LIV Comitissa de Albemarla.
LV Judith Comitissa.
LVI Frodo frat. Abbatis.
LVII Saiselinus.
A LVIII Gisebertus</p> |
|--|--|

The Appendix.

LVIII Gislebertus filius Tuoldi.
 LIX Willielmus Lentric.
 LX Hugo de Sancto Quintino.
 LXI Edmundus filius Algoii.
 LXII Roger. Marecallus.
 LXIII Adamus filius Durandi.
 LXIV Goscelinus Loremanus.
 LXV Johannes Nepos Walerami.
 LXVI Willielmus Diaconus.
 LXVII Galt. Cocus.
 LXVIII Modvinus.
 LXIX Ilbodo.
 LXX Haghebertus.
 LXXI Tedricus Pointel.
 LXXII Roger. Deus Salvet Domin.
 LXXIII Gislebertus filius Salomonis.
 LXXIV Willielmus filius Constantini
 LXXV Ansger. Cocus.
 LXXVI Robertus filius Roscelini.
 LXXVII Radus Pinel.
 LXXVIII Robertus filius Goberti.
 LXXIX Rainaldus Balistarius.
 LXXX Godvinus.
 LXXXI Otto Aurifaber.
 LXXXII Gislebertus Presbyter.
 LXXXIII Grimus.
 LXXXIV Ulvena.
 LXXXV Edwardus.
 LXXXVI Turchillus.
 LXXXVII Stanardus.
 LXXXVIII Godvinus.
 LXXXIX Liberi Homines Regis.
 LXXXX Invasiones.

These Liberi Homines Regis, were Taini, or Servientes Regis.

Norfulc.

I Willielmus Rex.
 II Episcopus Baiocensis.
 III Comes de Mauritania.
 IV Comes Alanus.
 V Comes Eustachius.
 VI Comes Hugo.
 VII Robertus Malet.
 VIII Willielmus de Warennā.
 IX Roger. Bigot.
 X Willielmus Episcopus Tedsfordensis.
 XI Osbertus Episcopus.
 XII Godricus Dapifer.
 XIII Hermer. de Ferrar.
 XIV Abbas de Sancto Eadmundo.

XV Abbas de Eli.
 XVI Abbas Sancti Benedicti de Ramfio.
 XVII Abbas de Hulmo.
 XVIII Sanctus Stephanus de Cadamo.
 XIX Willielmus de Schoies.
 XX Rad. de Belio Fago.
 XXI Rainaldus filius Ivonis.
 XXII Rad. de Toenio.
 XXIII Hugo de Montfort.
 XXIV Endo Dapifer.
 XXV Walter. Giffart.
 XXVI Roger. Pictaviens.
 XXVII Ivo Tallesbofc.
 XXVIII Radus de Limefcio.
 XXIX Eudo filius Spirwic.
 XXX Drogo de Beuraria.
 XXXI Rad. Bainardus.
 XXXII Ranulfus Piperellus.
 XXXIII Robertus Grenon.
 XXXIV Petrus Valonienfis.
 XXXV Robertus filius Corbutionis.
 XXXVI Ranulphus frater Ilgeri.
 XXXVII Tibellus Britto.
 XXXVIII Robertus de Verli.
 XXXIX Humfridus filius Alberici.
 XL Humfridus de Bohun.
 XLI Radus de Felgeres.
 XLII Gislebertus filius Richeri.
 XLIII Roger. de Ramis.
 XLIV Inichellus Presbyter.
 XLV Colebertus Presbyter.
 XLVI Edmundus filius Pagani.
 XLVII Isaac.
 XLVIII Tannus.
 XLIX Johannes Nepos Walerami.
 L Roger. filius Renardi.
 LI Bernerus Arbalistar.
 LII Gislebertus Arbalistar.
 LIII Radulfus Arbalistar.
 LIV Robertus Arbalistar.
 LV Radus Bellus artifex.
 LVI Hago.
 LVII Radus filius Hugon.
 LVIII Ulchetellus.
 LIX Aluredus.
 LX Aldit.
 LXI Godvinus Haldenus.
 LXII Starcolfus.
 LXIII Eldericus Aucipiter.
 LXIV De Liberis Hominibus Regis
 Ad nullam Firmam pertinent.

LXV De

LXV De Dominic. Hominibus Regis.
LXVI De Invasionibus.

Sudfulc.

- A I **W**illielmus Rex Anglor.
II Comes Maritonienſis.
III Comes Alanus.
IV Comes Hugo.
V Comes Eufthachius.
VI Robertus Malet.
VII Roger. Bigot.
VIII Roger. Piſtaviensis.
B IX Willielmus de Scoies.
X Hermerus de Ferreris.
XI Ranulfus de Bello Fago.
XII Frodo frater Abbatis.
XIII Godricus Dapifer.
XIV Abbas Sancti Edmundi.
XV Archiepiſcopus.
XVI Epifcopus Baiocensis.
XVII Abbas de Remefcia.
C XVIII Epifcopus Tedfordensis.
XIX Feudum ejusdem Epifcopi.
XX Epifcopus Rovenſis.
XXI Abbas de Eli.
XXII Epifcopus Ebroicensis.
XXIII Abbas Debernai.
XXIV Abbas de Ceterith.
D XXV Ricardus filius Comitſ Gifſe-
berti.
XXVI Willielmus de Warrenna.
XXVII Suenus de Eſſeſſa.
XXVIII Eudo Dapifer.
XXIX Roger. de Otburvil.
XXX Willielmus frater ejusdem.
XXXI Hugo de Monteforte.
XXXII Goſfridus de Magna villa.
E XXXIII Radus Baignardus.
XXXIV Ranulfus Piperellus.
XXXV Albericus de Ver.
XXXVI Robertus Greno.
XXXVII Petrus Valoniens.
XXXVIII Roger. de Ramis.
XXXIX Ranulfus frater Ilger.
F XL Robertus filius Corbutionis.
XLI Galtrus Diaconus.
XLII Tibellus de Heriow.
XLIII Radus de Limeſeio.
XLIV Robertus de Todeneio.
XLV Galter Giffart.
XLVI Comitiffa de Albamarla.
XLVII W. de Archis.
XLVIII Drogo de Beureria.

- XLIX Hugo de Grentemeſmil.
L Radus de Felgeris.
LI Galt. de Sancto Walerico.
LII Humfridus Camerar.
LIII Eudo filius Spervic.
LIV Willielmus de Watevill.
LV Johannes filius Walerami.
LVI Humfridus filius Alberici.
LVII Herbertus de Monte Canefio.
LVIII Godvinus.
LIX Saiſſelinus.
LX Robertus de Verli.
LXI Radus Pinel.
LXII Isaac.
LXIII Normannus.
LXIV Inichellus Presbyter.
LXV Girolodus Mareſcall.
LXVI Robertus Blundus.
LXVII Hervennus Bituricens.
LXVIII Giſelbertus Baliftar.
LXIX Radulſus Baliftarius.
LXX Ranaldus Britto.
LXXI Robertus de Stratford.
LXXII Stanardus.
LXXIII Ulmarus.
LXXIV Valvaſores.
LXXV Liberi Homines.
LXXVI Invaſiones ſuper Regem.

Chenth.

- I **R**ex Willielmus.
II Archiepiſcopus Cantuar.
III Monachi & Homines ejus.
IV Epifcopus Roſceſtreſis.
V Epifcopus Baiocensis.
VI Abbatia de Bataigle.
VII Abbatia Sancti Auguſtini.
VIII Abbatia de Gand.
IX Hugo de Montfort.
X Comes Eufthachius.
XI Ricardus de Tunbridge.
XII Haimo Vicecomes.
XIII Albertus Capellanus.

Under Num. III. Tit. Monachi ejus were comprehended the Lands of the Holy Trinity, and St. Martin in Canterbury, and perhaps of St. Martin in Dover. vid. Monuſt. Angl. vol. 1. f. 26. col. 1. n. 60. & col. 2.

Sudſexe.

- I **R**ex Willielmus.
II Archiepiſcopus Cantuar.
III Epifcopus Ciceſtreſis.
A 2 IV Abbas

IV Abbas Westmonaster.
 V Abbas Fiscannensis
 VI Osbernus Episcopus Excester.
 VII Abbatia Wintoniensis.
 VIII Abbatia de la Bataigle.
 IX Comes de Ow.
 X Comes Moritonie.
 XI Comes Roger.
 XII Willielmus de Warenn.
 XIII Willielmus de Braiosa.
 XIV Odo de Wincestre.
 XV Eldred.

Sudrie.

I **R** Ex Willielmus.
 II Archiepiscopus Cantuar.
 III Episcopus Wintoniensis.
 IV Episcopus Osbornus.
 V Episcopus Baiocensis.
 VI Abbas de Westmonast.
 VII Abbas de Wintonia.
 VIII Abbas de Certesy.
 IX Abbas Sancti Wandregesili.
 X Abbas de Cruce Sancti Leutfredi.
 XI Abbas de la Bataigle.
 XII Abbatissa de Berchinges.
 XIII Canonici Sancti Pauli London.
 XIV Ecclesia de Lantheye.
 XV Comes Eustachius.
 XVI Comitissa Bononiensis.
 XVII Comes Moritonienfis.
 XVIII Comes Rogerus.
 XIX Ricardus de Tonebrige.
 XX Willielmus de Braiose.
 XXI Willielmus filius Ansculfi.
 XXII Walterius filius Other.
 XXIII Walterius de Donai.
 XXIV Gislebertus filius Richerii.
 XXV Goisfridus de Manneville.
 XXVI Goisfridus Orlateile.
 XXVII Edwardus Sarisberie.
 XXVIII Robertus Malet.
 XXIX Milo Crispin.
 XXX Haimo Vicecomes.
 XXXI Hunfridus Camrarius.
 XXXII Radulfus de Felgeres.
 XXXIII Rainaldus filius Erchebaldi.
 XXXIV Albertus Clericus.
 XXXV Odardus Balistarius.
 XXXVI Oswaldus Teodericus &
 alii Seruientes Regis.

Hantescire.

I **R** Ex Willielmus.
 II Episcopus Wintoniensis.
 III Et Monachi ejus.
 IV Thomas Archiepiscopus.
 V Osbernus Episcopus de Excestre.
 VI Abbas Wintoniensis.
 VII Abbas Gloucestr.
 VIII Abbas Westmonast.
 IX Abbas de Certesy.
 X Abbas Gemmeticensis.
 XI Abbas Glastingeber.
 XII Abbas Middletunensis.
 XIII Abbas de Grestam.
 XIV Abbatissa de Wincestre.
 XV Abbatissa de Romefyg.
 XVI Abbatissa de Warnuelle.
 XVII Canonici de Tuinham.
 XVIII Comes Alanus.
 XIX Comes Moritonienfis.
 XX Comes Roger.
 XXI Comes Hugo.
 XXII Hugo de Porth de Rege.
 XXIII Idem de Episcopo Baiocensi.
 XXIV Hubertus de Porth.
 XXV Willielmus de Perci.
 XXVI Ernulfus de Hesding.
 XXVII Edward. de Saresber.
 XXVIII Robertus filius Girolidi.
 XXIX Radulfus de Mortimer.
 XXX Eudo filius Hubert.
 XXXI Willielmus Bertram.
 XXXII Willielmus de Ow.
 XXXIII Willielmus de Braiosa.
 XXXIV Willielmus de Warrenna.
 XXXV Willielmus de Maldwith.
 XXXVI Aluredus Merlebergh.
 XXXVII Durandus de Gloucestr.
 XXXVIII Turstinus filius Rolf.
 XXXIX Bernardus Pencevolt.
 XL Turstinus Camerarius.
 XLI Ricardus Sturmie.
 XLII Ricard. Puingiand.
 XLIII Giselbertus de Breteville.
 XLIV Hugo filius Baldri.
 XLV Waleran. Venator.
 XLVI Walter. filius Other.
 XLVII Walter. filius Roger. de
 Pistes.
 XLVIII Willielmus filius Manne.
 XLIX Willielmus Alis.

L Willielmus

- A
L Willielmus filius Baderon.
LI Willielmus filius Stur.
LII Willielmus Belet.
LIII Willielmus Arcuarius.
LIV Herbertus filius Remigii.
LV Herbertus Camerar.
LVI Henr. Thesaurar.
LVII Humfridus Camerarius.
LVIII Herbrand de Pont. Audemer.
LIX Rainaldus filius Croch.
LX Croch Venator.
LXI Gozelin. de Cormeljs.
LXII Goisfridus Marescal.
LXIII Nigellus Medicus.
B
LXIV Aluredus Presbyter.
LXV Durandus Tonforator.
LXVI Ranulphus Flamme.
LXVII Goisfridus Camerar. filius
Regis.
LXVIII Hugo Alabarbe.
LXIX Alii plures servientes Regis.
C
LXX Odo de Wincestre & Alii
multi Taini Regis.

In Insula de With.

- D
I R Ex Willielmus.
II Episcopus Wintoniensis.
III Ecclesia Sancti Nicholai.
IV Abbatia de Lire.
V Abbatia Wiltuniensis.
VI Willielmus filius Stur.
VII Willielmus filius Azor.
VIII Gozelinus filius Azor.
IX Godricus Presbyter & alii plu-
res.

E
Item in eodem Comitatu cir-
ca Novam Forestam.

- F
I R Ex Willielmus.
II Episcopus Wintoniensis.
III Comes Roger.
IV Willielmus de Ow.
V Radulfus de Mortemer.
VI Hugo de Porth.
VII Edwardus de Saresber.
VIII Ranulfus Flammar.
IX Hugo & Odo & Alii plures.

The Plures here were Taini, &c.

Berrochescire.

- I R Ex Willielmus.
II Episcopus Wintoniensis.
III Episcopus Sarisberiensis.
IV Episcopus Dunelmensis.
V Episcopus Excestrensis.
VI Episcopus Constantiensis.
VII Abbatia Abandoniensis.
VIII Abbatia Glastengeber.
IX Abbatia Westmonast.
X Abbatia Wintoniensis.
XI Abbatia Certesy.
XII Abbatia Sancti Albani.
XIII Abbatia Sancti Petri Sur.
Dive.
XIV Abbatia de la Bataigle.
XV Abbatissa de Wincestre.
XVI Abbatissa de Ambresberie.
XVII Comes Ebroicensis.
XVIII Comes Hugo.
XIX Comes Mortitonens.
XX Walter. Giffard.
XXI Henr. de Ferier.
XXII Willielmus filius Ansculfi.
XXIII Willielmus de Ow.
XXIV Willielmus Peverel.
XXV Willielmus Braios.
XXVI Willielmus Loveth.
XXVII Willielmus filius Corbution.
XXVIII Willielmus filius Richardi.
XXIX Willielmus de Calgi.
XXX Walter. filius Pontz.
XXXI Walter. filius Other.
XXXII Endo filius Huberti.
XXXIII Milo Crispin.
XXXIV Ghilo frater Ansculfi.
XXXV Hascoit Musard.
XXXVI Giselbertus de Breteville.
XXXVII Gilbertus de Gand.
XXXVIII Goisfridus de Manneville.
XXXIX Osbertus Giffart.
XL Robertus filius Girold.
XLI Robertus de Olgi.
XLII Robertus de Stadford.
XLIII Ricardus Puingiand.
XLIV Roger. de Lueri.
XLV Roger. de Laci.
XLVI Radulfus de Mortemer.
XLVII Radulfus de Toden.
XLVIII Radulfus filius Comitis.
XLIX Ra-

XLIX Radulfus filius Scifride.
 L Ernulfus de Hesdinge.
 LI Hugo filius Baldrici.
 LII Hugo de Porth.
 LIII Hunfridus Camerar.
 LIV Hunfridus vil. de Lero.
 LV Turstinus filius Rolfi.
 LVI Albertus.
 LVII Ainulfus Vicecomes.
 LVIII Hugolinus Stirman.
 LIX Mathens de Moritania.
 LX Bernardus Accipitrar.
 LXI Reinbaldus Presbyter.
 LXII Grimbaldus.
 LXIII Teodricus Aurifaber Odo &
 alii plures Taini.

Wiltescire.

I **R** Ex Willielmus.
 II **R** Episcopus Wintoniensis.
 III Episcopus Sarisberiensis.
 IV Episcopus Baiocensis.
 V Episcopus Constantiensis.
 VI Episcopus Lisacensis.
 VII Abbatia Glastingberiensis.
 VIII Abbatia Malmesberiensis.
 IX Abbatia Westmonasterii.
 X Abbatia Wintoniensis.
 XI Abbatia Creneburnensis.
 XII Abbatissa Sceftesberiensis.
 XIII Abbatissa Wiltunienfis.
 XIV Abbatissa Wintoniensis.
 XV Abbatissa Romesiensis.
 XVI Abbatissa Ambresberiensis.
 XVII Ecclesia Beccensis.
 XVIII Giraldu Presbyter de Wiltune.
 XIX Canonici Lisiansenses.
 XX Comes Moritonienfis.
 XXI Comes Roger.
 XXII Comes Hugo.
 XXIII Comes Albericus.
 XXIV Edwardus de Sarisber.
 XXV Ernulfus de Hesding.
 XXVI Aluredus de Merlebergh.
 XXVII Hunfridus de Insula.
 XXVIII Milo Crispin.
 XXIX Gislebertus de Bretteville.
 XXX Durandus de Gloucester.
 XXXI Walter. Gifart.
 XXXII Willielmus de Ow.
 XXXIII Willielmus de Braiose.

XXXIV Willielmus de Mojun.
 XXXV Willielmus de Faleise.
 XXXVI Walsinus de Dowai.
 XXXVII Waleranus Venator.
 XXXVIII Willielmus filius Widonis.
 XXXIX Henricus de Ferier.
 XL Ricardus filius Com. Gisleberti.
 XLI Radulfus de Mortemer.
 XLII Robertus filius Girold.
 XLIII Robertus filius Rolfi.
 XLIV Roger. de Curcelle.
 XLV Roger. de Barchelai.
 XLVI Bernald Pancevolt.
 XLVII Berenger. Gifart.
 XLVIII Osbernus Gifart.
 XLIX Drogo filius Ponz.
 L Hugo Lasne.

LI Hugo filius Baldrici.
 LII Hunfridus Camerar.
 LIII Gunfridus Maldwith.
 LIV Aluredus de Hispania.
 LV Ainulfus Vicecomes.
 LVI Nigellus Medicus.
 LVII Osbernus Presbyter.
 LVIII Ricardus Puingiand.
 LIX Robertus Marefcal.
 LX Robertus Flavus.
 LXI Ricardus Sturma.
 LXII Rainaldus Camus.
 LXIII Maci de Moritania.
 LXIV Gazelinus Rivere.
 LXV Godescal.

LXVI Herman & alii Servientes Regis.
 LXVII Odo & alii Taini Regis.
 LXVIII Hervens & alii Ministri Regis.

Dorsete.

I **R** Ex Willielmus.
 II **R** Episcopus Sarisberiensis.
 III Monachi Scireburne
 IV Episcopus Baiocensis.
 V Episcopus Constantiensis.
 VI Episcopus Lisacensis.
 VII Episcopus Lundoniensis.
 VIII Abbatia Glastinber.
 IX Abbatia Wintoniensis.
 X Abbatia Creneburnensis.
 XI Abbatia de Cernel.
 XII Abbatia de Middleton.
 XIII Abbatia de Abedesberie.

XIV Ab-

- | | |
|---|--|
| <p>A XIV Abbatia de Hortune.
 XV Abbatia de Adelingi.
 XVI Abbatia de Tavestock.
 XVII Abbatia de Cadomis.
 XVIII Abbatia Sancti Wandregisli.
 XIX Abbatissa de Scestesberie.
 XX Abbatissa de Wiltune.
 XXI Abbatissa de Cadom.
 XXII Abbatissa de Monaster. Villar.
 XXIII Canonici Constantiens.
 XXIV Reinbaldus Presbyter & alii Clerici.
 XXV Comes Alanus.
 XXVI Comes Moritonensis.
 B XXVII Comes Hugo.
 XXVIII Roger. de Belmont.
 XXIX Roger. de Curcelle.
 XXX Robertus filius Girold.
 XXXI Edvardus de Sarisber.
 XXXII Ernulfus de Hesding.
 XXXIII Turstinus filius Rolf.
 XXXIV Willielmus de Ow.
 C XXXV Willielmus de Faleise.
 XXXVI Willielmus de Mojun.
 XXXVII Willielmus de Braiose.
 XXXVIII Willielmus de Scobies.
 XXXIX Walseinus de Douvai.
 XL Waleran. Venator.
 XLI Walter. de Clavile.
 XLII Baldwinus de Excestre.
 XLIII Berenger Gifart.
 D XLIV Osbernus Gifart.
 XLV Maci de Moritanie.
 XLVI Roger. Arundell.
 XLVII Serlo de Burci.
 XLVIII Ainulfus Vicecomes.
 XLIX Hunfridus Camerar.
 L Hugo de Porth.
 LI Hugo de Sancto Quintino.
 E LII Hugo de Boscherberti.
 LIII Hugo de Luri & alii Franc.
 LIV Uxor Hugonis.
 LV Iseldis.
 LVI Gudmund. & alii Taini.
 LVII Willielmus Belet & alii Servientes Regis.
 F LVIII Comitissa Boloniensis.</p> | <p>IV Episcopus Baiocensis.
 V Episcopus Constantiensis.
 VI Episcopus Wellensis.
 VII Ecclesia de Bada.
 VIII Ecclesia Glastingberiensis.
 IX Ecclesia Miceleniensis.
 X Ecclesia Adelingiensis alias Glastoniensis.
 XI Ecclesia Romana Sancti Petri.
 XII Ecclesia de Cadom.
 XIII Ecclesia de Monteburg.
 XIV Ecclesia de Scestesberie.
 XV Episcopus Mauricius.
 XVI Clerici tenentes de Rege.
 XVII Comes Eustachius.
 XVIII Comes Hugo.
 XIX Comes Moritonensis.
 XX Baldwinus de Excestre.
 XXI Roger. de Curcelle.
 XXII Roger. Arundell.
 XXIII Walter. Gifart.
 XXIV Walter. vel Wascinnus de Douvai.
 XXV Willielmus de Mojun.
 XXVI Willielmus de Ow.
 XXVII Willielmus de Faleise.
 XXVIII Willielmus filius Widonis.
 XXIX Radulfus de Mortimer.
 XXX Ranulphus de Pomerei.
 XXXI Radulfus Pagenell.
 XXXII Radus de Limefe.
 XXXIII Robertus filius Giroldi.
 XXXIV Aluredus de Merleberge.
 XXXV Aluredus de Hispania.
 XXXVI Turstinus filius Rolf.
 XXXVII serlo de Burei.
 XXXVIII Odo filius Gamelin.
 XXXIX Osberne Gifart.
 XL Edvardus de Sarisber.
 XLI Ernulfus de Hesding.
 XLII Gilbertus filius Turolde.
 XLIII Godebold.
 XLIV Matthens de Moritania.
 XLV Hunfridus Camerar.
 XLVI Robertus de Odburnile & alii Servientes Regis.
 XLVII Taini Regis.</p> |
|---|--|

Summerfete.

- I **R** Ex Willielmus.
 II **R** Episcopus Wintoniensis.
 III Episcopus Sarisberiensis.

Devenescire.

- I **R** Ex Willielmus.
 II **R** Episcopus de Excestre.
 III Episcopus Constantiensis.
 IV Ec-

IV Ecclesia Glastingberie.
 V Ecclesia de Tavestock.
 VI Ecclesia de Bucfesth.
 VII Ecclesia de Hortune.
 VIII Ecclesia de Creneburne.
 IX Ecclesia de la Bataigle.
 X Ecclesia de Rotomago Sancti Mart.
 XI Ecclesia de Monte Sancti Michael.
 XII Ecclesia Sancti Stephani de Cadom.
 XIII Ecclesia Sancte Trinit. de Cadom.
 XIV Comes Hugo.
 XV Comes Moritonienfis.
 XVI Baldwinus Vicecomes.
 XVII Judhell de Todenais.
 XVIII Willielmus de Moimi.
 XIX Willielmus Chicure.
 XX Willielmus Faleise.
 XXI Willielmus de Poilgi.
 XXII Willielmus de Ow.
 XXIII Walter. de Donnai.
 XXIV. Walter. de Clavile.
 XXV Walterius.
 XXVI Gozelinus.
 XXVII Ricardus filius Gisleberti Comit.
 XXVIII Roger. de Busti.
 XXIX Robertus de Albamarla.
 XXX Robertus Bastard.
 XXXI Ricardus filius Turolf.
 XXXII Radulfus de Limesf.
 XXXIII Radulfus de Pagenell.
 XXXIV Radulfus de Felgeres.
 XXXV Radulfus de Pomerci.
 XXXVI Ruald Adobed.
 XXXVII Tedbaldus filius Bernerii.
 XXXVIII Trustinus filius Rolf.
 XXXIX Aluredus de Hispania.
 XL Aluredus Brito.
 XLI Ansgerns.
 XLII Ainulfus.
 XLIII Odo filius Gamelin.
 XLIV Osbernus de Salceid.
 XLV Uxor Hervei de Helion.
 XLVI Girolodus Capellanus.
 XLVII Girardus.
 XLVIII Godobaldus.
 XLIX Nicholaus.
 L Fulcherus.
 LI Haimericus.
 LII Willielmus & alii Servientes Regis.

LIII Colvin & alii Tani Regis.

Cornvalgie.

I **R** Ex Willielmus.
 II Episcopus de Exceestre.
 III Ecclesia de Tavestock.
 IV Ecclesia aliquor. Sanctorum.
 V Comes Moritonienfis.
 VI Judahell de Todenais.
 VII Gozelinus.

A

Midlesexe.

I **R** Ex Willielmus.
 II Archiepiscopus Cantuar.
 III Episcopus Lundon. & Canonici ejus.
 IV Abbatia de Woffmonast.
 V Abbatia Sancte Trinitat. Rotom.
 VI Abbatia de Berchinges.
 VII Comes Rogerius.
 VIII Comes Moritonienfis.
 IX Goisfridus de Manneville.
 X Ernulfus de Hesding.
 XI Walterius filius Other.
 XII Walterius de Sancto Walerico.
 XIII Ricardus filius Gilberti Com.
 XIV Robertus Gernon.
 XV Robertus Faston.
 XVI Robertus filius Roselini.
 XVII Robertus Blundus.
 XVIII Roger. de Ramis.
 XIX Willielmus filius Anscu'f.
 XX Edvardus de Sarisberie.
 XXI Albericus de Ver.
 XXII Ranulfus frater Ilgeri.
 XXIII Herman.
 XXIV Juditha Comitissa.
 XXV Elemosinarii Regis.

B

C

D

E

Hertfordscire.

I **R** Ex Willielmus.
 II Archiepiscopus Cantuar.
 III Episcopus Wintonienfis.
 IV Episcopus Londonienfis.
 V Episcopus Baiocenfis.
 VI Episcopus Lasiacenfis.
 VII Episcopus Cestrenfis.
 VIII Abbas de Ely.

F

IX Abbas

- IX Abbas de Westmonast.
 X Abbas de Sancto Albano.
 XI Abbatissa de Cetriz.
 XII Canonici de Lundonia.
 XIII Canonici de Waltham.
 XIV Comes Moritonienfis.
 A XV Comes Alanus.
 XVI Comes Eustachius.
 XVII Comes Roger.
 XVIII Robertus de Olgi.
 XIX Robertus de Gernon.
 XX Robertus de Toden.
 XXI Radulfus de Toden.
 B XXII Radulfus de Limefcio.
 XXIII Radus Bainard.
 XXIV Ranulfus frater Ilger.
 XXV Hugo de Gretemesnil.
 XXVI Hugo de Belcampo.
 XXVII Willielmus de Ow.
 XXVIII Willielmus de Osburvil.
 XXIX Walter. Flandrenfis.
 C XXX Eudo Dapifer.
 XXXI Edwardus Saresberienf.
 XXXII Goisfridus de Manneville.
 XXXIII Goisfridus de Bech.
 XXXIV Goisbertus de Belvaco.
 XXXV Petrus Valonienf.
 XXXVI Harduinus de Escalers.
 XXXVII Edgar.
 XXXVIII Maigno Brito.
 D XXXIX Gilbertus filius Solomonis.
 XL Sagar de Cioches.
 XLI Darman, & alii Regis Thaini.
 XLII Rotharias Uxor Ricardi filius
 Gilberti Comitiss.
 XLIII Abeliz. Uxor Hugonis.
 XLIV Filia Randulfi Talgebosch.

E

Bochinghamsfire.

- I R Ex Willielmus.
 II R Archiepiscopus Cantuar.
 III Episcopus Wintoniens.
 F IV Episcopus Lincoliensis.
 V Episcopus Baiocensis.
 VI Episcopus Constantiens.
 VII Episcopus Lisacensis.
 VIII Abbas Westmonast.
 IX Abbas de Sancto Albano.
 X Abbatissa de Berching.
 XI Canonici de Oxeneford.
 XII Rainaldus Presbyter.

- XIII Comes Moritonienfis.
 XIV Comes Hugo de Cestre.
 XV Walterius Gifart.
 XVI Willielmus de Warenn.
 XVII Willielmus Peverell.
 XVIII Willielmus filius Ansculfi.
 XIX Ricardus de Toden.
 XX Robertus de Oilgi.
 XXI Robertus Gernon.
 XXII Goisfridus de Manneville.
 XXIII Gilbertus de Gand.
 XXIV Milo Crispin.
 XXV Edwardus de Sarisberie.
 XXVI Hugo de Bellocamp.
 XXVII Hugo de Bolebech.
 XXVIII Henricus de Ferrariis.
 XXIX Walterius de Vernon.
 XXX Walterius filius Other.
 XXXI Walterius Flandrenfis.
 XXXII Willielmus de Felgeres.
 XXXIII Willielmus Camerarius.
 XXXIV Willielmus filius Constan-
 tini.
 XXXV Willielmus filius Magni.
 XXXVI Turstinus filius Rolf.
 XXXVII Turstinus Mantell.
 XXXVIII Radus de Felgeres.
 XXXIX Bertramus de Verduno.
 XL Nigellus de Albinio.
 XLI Nigellus de Bereville.
 XLII Roger de Iveri.
 XLIII Ricardus de Ingania.
 XLIV Maimo Brito.
 XLV Godelinus Brito.
 XLVI Urso de Berseres.
 XLVII Venemarus.
 XLVIII Martinus.
 XLIX Hervens Legatus.
 L Hascoit Musart.
 LI Gunfridus de Cioches.
 LII Gilo frater Ansculfi.
 LIII Mathildis Regina.
 LIV Juditha Comitissa.
 LV Azelina Uxor Tolgebosch.
 LVI Taini Regis & Elemosinarij.

Oxenefordscire.

- I R Ex Willielmus.
 II R Archiepiscopus Cantuariensis.
 III Episcopus Wintoniens.
 B IV Epif-

IV Episcopus Saresberiensis.
 V Episcopus Excestrensis.
 VI Episcopus Lincolniensis.
 VII Episcopus Baiocensis.
 VIII Episcopus Lisacensis.
 IX Abbatia Abindoniensis.
 X Abbatia de la Bataigle.
 XI Abbatia de Wincelcumbe.
 XII Abbatia de Pratellis.
 XIII Ecclesia Sancti Dionisi Parisi
 XIV Canonici de Oxeneford & alii
 Clerici.
 XV Comes Hugo.
 XVI Comes Moritonensis.
 XVII Comes Ebroicensis.
 XVIII Comes Albericus.
 XIX Comes Enstachius.
 XX Walter. Gifart.
 XXI Willielmus filius Ansculfi.
 XXII Willielmus de Warennia.
 XXIII Willielmus Peverell.
 XXIV Henricus de Ferier.
 XXV Hugo de Bolebech.
 XXVI Hugo de Luri vel Luci.
 XXVII Robertus de Stadford.
 XXVIII Robertus de Oilgi.
 XXIX Roger. de Luri vel Lenri.
 XXX Radus de Mortemer.
 XXXI Ranulfus Penrell.
 XXXII Ricardus de Curci.
 XXXIII Ricardus Puinguland.
 XXXIV Berenger de Toderi.
 XXV Milo Crispin.
 XXXVI Wido de Reinbodecurth.
 XXXVII Ghilo Frater Ansculfi.
 XXXVIII Gilbertus de Gand.
 XXXIX Goisfridus de Maneville.
 XL Ernulfus de Hesding.
 XLI Edwardus de Saresberie.
 XLII Swain Vicecomes.
 XLIII Aluredus Nepos Wigot.
 XLIV Wido de Oilgi.
 XLV Walterius Pontz.
 XLVI Willielmus Lenric.
 XLVII Willielmus filius Manne or
 Magni.
 XLVIII Ilbodus frater Ernulfi de
 Hesding.
 XLIX Reinbaldus.
 L Robertus filius Murdrac.
 LI Osbernus Gifart.
 LII Benzelinus.
 LIII Juditha Comitissa.
 LIV Christina.

LV Uxor Roger. de Luri.
 LVI Hascoit Musard.
 LVII Turchill.
 LVIII Richardus Ingan. & alii Mi-
 nistri Regis.
 LIX Willielmus Comes de Warennia.

Glowcestrescire.

I R Ex Willielmus.
 II Archiepiscopus Eboracensis.
 III Episcopus de Wirecestre.
 IV Episcopus de Hereforde.
 V Episcopus de Excestre.
 VI Episcopus de Sancto Laudo.
 VII Ecclesia de Bade.
 VIII Abbatia de Glastingberie.
 IX Abbatia de Malmesburie.
 X Abbatia de Glowcestre.
 XI Abbatia de Wincelcumbe.
 XII Abbatia de Evesham.
 XIII Abbatia de Abendone.
 XIV Abbatia de Perfore.
 XV Abbatia de Coventreu.
 XVI Abbatia de Cormelies.
 XVII Abbatia de Lire.
 XVIII Abbatia de Egleham.
 XIX Abbatia de Westmonast.
 XX Ecclesia Sancti Dionisi Pa-
 risi.
 XXI Ecclesia de Lanbeig.
 XXII Ecclesia Sancti Eborulfi.
 XXIII Ecclesia Sancte Trinitat. Ca-
 domens.
 XXIV Ecclesia de Troarz.
 XXV Ecclesia de Cirecestre.
 XXVI Renbaldus Presbyter.
 XXVII Comes Rogerius.
 XXVIII Comes Hugo.
 XXIX Comes Moritonensis.
 XXX Gilbertus Mannoth. Episcopus
 Lisacensis.
 XXXI Willielmus de Ow.
 XXXII Willielmus filius Baderon.
 XXXIII Willielmus Camerarius.
 XXXIV Willielmus Goizenboded.
 XXXV Willielmus filius Widon.
 XXXVI Willielmus Froisselew.
 XXXVII Willielmus filius Norman.
 XXXVIII Willielmus Luri.
 XXXIX Roger. de Laci.
 XL Roger.

- XL Roger. de Belmont.
 XLI Roger. de Luri.
 XLII Roger. de Berchelai.
 XLIII Radulfus frater ejus.
 XLIV Radulfus Pagenell.
 XLV Radulfus de Toden.
 XLVI Robertus de Toden.
 A XLVII Robertus Dispensator.
 XLVIII Robertus de Oilgi.
 XLIX Ricardus Legatus.
 L Osbernus Gifart.
 LI Gotsfridus Orleteile.
 LII Gilbertus filius Turold.
 LIII Durandus Vicecomes.
 LIV Drogo filius Pontz.
 B LV Walterius filius Pontz.
 LVI Walterius filius Roger.
 LVII Walterius Diaconus.
 LVIII Walterius Balistarius.
 LIX Henricus de Ferriers.
 LX Ernulphus de Hesding.
 LXI Heraldus filius * Radi Comitis.
 LXII Hugo de Gretemaisnel.
 C LXIII Hugo Lafne.
 LXIV Milo Crispin.
 LXV Urso de Abbatot.
 LXVI Hascoit Musard.
 LXVII Turstinus filius Rolfi.
 LXVIII Ansfridus de Cormelies.
 LXIX Hunfridus Camerarius.
 LXX Hunfridus de Medehall.
 D LXXI Hunfridus Coquus.
 LXXII Sigar de Cioches.
 LXXIII Maci de Moritanie.
 LXXIV Gozelinus Britto.
 LXXV Roger. filius Radulfi.
 LXXVI Uxor Geri.
 LXXVII Baldwinus.
 LXXVIII Elfi & alii Taini Regis.

E * This Ralph was Earl of Hereford before the Conquest, he was Son to Walter de Mans, a French or Norman, who married Goda Sister to Edward the Confessor. Dug. Bar. Tom. 1. f. 21. col. 2. he is to be found in Berk, Wermic, and Worcester shires. See Flor. Wigorn. f. 629. A. D. 1055

F Wirecestrescire.

- I R Ex Willielmus.
 II R Ecclesia de Wirecestre.
 III Episcopus de Hereford.

- IV Ecclesia Sancti Dionisii.
 V Ecclesia de Coventren.
 VI Ecclesia de Cormelies.
 VII Ecclesia de Gloucestre.
 VIII Ecclesia de Westmonast.
 IX Ecclesia de Persfore.
 X Ecclesia de Evesham.
 XI Episcopus Baiocensis.
 XII Ecclesia Sancti Guthlaci.
 XIII Clerici de Wrehantone.
 XIV Comes Roger.
 XV Radulfus de Toden.
 XVI Radulfus de Mortemer.
 XVII Robertus de Stadford.
 XVIII Roger. de Laci.
 XIX Osbernus filius Ricardi.
 XX Gilbertus filius Turoldi.
 XXI Drogo filius Pontz.
 XXII Heraldus filius Radulfi.
 XXIII Willielmus filius Ansculfi.
 XXIV Willielmus filius Corbution.
 XXV Willielmus Goozenboded.
 XXVI Urso de Abetoth.
 XXVII Hugo Lafne.
 XXVIII Eldeve.

Herefordscire.

- I W Willielmus Rex.
 II Episcopus de Hereford.
 III Ecclesia de Cormelies.
 IV Ecclesia de Lire.
 V Ecclesia de Gloucestre.
 VI Ecclesia Sancti Guthlaci.
 VII Nigellus Medicus.
 VIII Radulfus de Toden.
 IX Radus de Mortemer.
 X Roger. de Laci.
 XI Roger. de Mucelgros.
 XII Robertus Gernon.
 XIII Henricus de Felgeres.
 XIV Willielmus de Scohet.
 XV Willielmus filius Baderon.
 XVI Willielmus filius Norman.
 XVII Turstinus filius Rolfi.
 XVIII Albertus Lothariensis.
 XIX Aluredus de Merleberge.
 XX Aluredus de Hispania.
 XXI Ansfridus de Cormelies.
 XXII Durandus de Gloucestre.
 XXIII Drogo filius Pontz.
 XXIV Osbernus filius Ricardi.

Herefordscire & in Ar- senfield in Walis.

- XXV **G**ilbertus filius Tuold.
 XXVI **G**ilbertus filius Tuold.
 XXVII Herman de Druces.
 XXVIII Hunfridus de Buiville.
 XXIX Hugo Lasne.
 XXX Orso de Abetoth.
 XXXI Griffin.
 XXXII Raynerius.
 XXXIII Carbon.
 XXXIV Uxor Radulfi Capellani.
 XXXV Stefanus.
 XXXVI Madoch, Edric, Elmer.
 These were Taini or Servientes
 Regis.

Gretebr. scire.

- I **R**ex Willielmus.
 II **R**ex Episcopus Wintoniensis.
 III Episcopus Lincolniensis.
 IV Episcopus Rosenfis.
 V Abbas de Ely.
 VI Abbas de Sancto Edmundo.
 VII Abbas de Ramefy.
 VIII Abbas de Torn.
 IX Abbas de Croyland.
 X Abbas Sancti Wandregisli.
 XI Abbatissa de Citeriz.
 XII Comes Moritonensis.
 XIII Comes Roger.
 XIV Comes Alanus.
 XV Comes Eustachius.
 XVI Canonici Baiocenses.
 XVII Walter. Gifart.
 XVIII Willielmus de Warrenna.
 XIX Ricardus filius Gilberti Comit.
 XX Robertus de Todeni.
 XXI Robertus Gernon.
 XXII Goisfridus de Manneville.
 XXIII Gilbertus de Gand.
 XXIV Gilbertus filius Tuoldi.
 XXV Eudo Dapifer.
 XXVI Hardvins de Scalers.
 XXVII Hugo de Berneres.
 XXVIII Hugo de Port.
 XXIX Albericus de Ver.
 XXX Eustachius de Huntedune.
 XXXI Wido de Rembecurt.
 XXXII Petrus de Valonienses.

- XXXIII Picor de Grantebridge.
 XXXIV Ranulfus frater Ilgeri.
 XXXV Johan. filius Walcrani.
 XXXVI Willielmus filius Ansculfi.
 XXXVII Willielmus Cahanges.
 XXXVIII Robertus Faston.
 XXXIX David. de Argentoun.
 XL Dno Carpentarii Regis.
 XLI Juditha Comitissa.
 XLII Azelina Uxor Radulfi Tall.
 geboch.
 XLIII Uxor Bosselini de Dive.
 XLIV Erchanger Pistor.

Huntedunscire.

- I **R**ex Willielmus.
 II **R**ex Episcopus Lincolniensis.
 III Episcopus Constantiensis.
 IV Abbatia de Ely.
 V Abbatia de Creuland.
 VI Abbatia de Ramefy.
 VII Abbatia de Torn.
 VIII Abbatia de Burg.
 IX Comes Eustachius.
 X Comes de Ow.
 XI Comes Hugo.
 XII Walter. Gifart.
 XIII Willielmus de Warrenna.
 XIV Hugo de Bolebesh.
 XV Eudo filius Huberti, de Riez
 siue Dapifer.
 XVI Swaine de Effessa.
 XVII Roger. de Luri.
 XVIII Ernulfus de Hesding.
 XIX Eustachius Vicecomes.
 XX Juditha Comitissa.
 XXI Gilbertus de Gand.
 XXII Albericus de Ver.
 XXIII Willielmus filius Ansculfi.
 XXIV Ranulfus frater Ilgeri.
 XXV Robertus Faston.
 XXVI Willielmus Ingania.
 XXVII Radulphus filius Osmund.
 XXVIII Robars Uxor Ricardi.
 XXIX Taini Regis.

Bedefordscire.

- I **R**ex Willielmus.
 II **R**ex Episcopus Baiocensis.
 III Episcopus Constantiensis.
 IV Episcopus

IV Episcopus Lincolnensis.

V Episcopus Dunelmensis.

VI Abbas de Sancto Edmundo.

VII Abbas de Burg.

VIII Abbas de Ramsey.

IX Abbas de Westmon.

X Abbas de Torny.

A XI Abbatissa de Berching.

XII Canonici de London.

XIII Canonici de Bedford.

XIV Ermimus Presbyter.

XV Eustachius Comes.

XVI Walter. Gifart.

XVII Willielmus de Warenn.

XVIII Willielmus de Ow.

B XIX Milo Crispin.

XX Ernulfus Hesding.

XXI Eudo Dapifer.

XXII Willielmus Peverel.

XXIII Hugo de Belcampo.

XXIV Nigellus de Albingi.

XXV Willielmus Spech.

XXVI Robertus de Toden.

C XXVII Gilbertus de Gand.

XXVIII Robertus de Oilgi.

XXIX Ranulfus frater Ilger.

XXX Robertus Faston.

XXXI Aluredus de Lincolnie.

XXXII Walter. Flandrensis.

XXXIII Walter. frater Seitherii.

XXXIV Hugo Flandrensis.

D XXXV Hugo Pincerna.

XXXVI Sigarus de Cioches.

XXXVII Gunfridus de Cioches.

XXXVIII Ricardus filius Gilberti Comit.

XXXIX Ricardus Puigiant.

XL Willielmus Camerarius.

XLI Willielmus Lovet.

E XLII Willielmus.

XLIII Henricus filius Azor.

XLIV Osbernus filius Ricardi.

XLV Gilbertus filius Salom.

XLVI Osbernus filius Walter.

XLVII Osbernus Piscator.

XLVIII Turstinus Camerarius.

XLIX Albertus Lothariensis.

F L David de Argentan.

LI Radulfus de Insula.

LII Gozelinus Brito.

LIII Judita Comitissa.

LIV Adeliza uxor Hug. de Gren-
temesnil.

LV Adelina femina Radi Tallgebofc.

LVI Burghenses de Bedford.

LVII Praefecti Regis, & Bedelli,
& Elemosynarii.

Northant. scire.

I Willielmus Rex.

II Episcopus Baiocensis.

III Episcopus Dunelmensis.

IV Episcopus Constantiensis.

V Episcopus Lincolnensis.

VI Abbatia de Burg.

VII Abbatia de Westmonast.

VIII Abbatia de Sancto Edmundo.

IX Abbatia de Ramsey.

X Abbatia de Torny.

XI Abbatia de Crenland.

XII Abbatia de Coventren.

XIII Abbatia de Evesham.

XIV Abbatia de Greftain.

XV Ecclesia Sancti Remigii Re-
mensis.

XVI Ansgerus Capellanus.

XVII Lewinus Presbyter & alii
Clerici.

XVIII Comes Moritonensis.

XIX Comes de Mellent.

XX Comes Alanus.

XXI Comes Albericus.

XXII Comes Hugo.

XXIII Hugo de Grentemesnil.

XXIV Hugo de Luri.

XXV Henricus de Ferieres.

XXVI Robertus de Toden.

XXVII Robertus de Stadford.

XXVIII Robertus de Oilgi.

XXIX Robertus de Veci.

XXX Robertus de Buci.

XXXI Radus Pagenell.

XXXII Radulfus de Limefeio.

XXXIII Robertus Albus.

XXXIV Willielmus de Cahainges.

XXXV Willielmus Peverell.

XXXVI Willielmus filius Ansculfi.

XXXVII Willielmus Loveth.

XXXVIII Walterius de Aincurth.

XXXIX Walterius Flandrensis.

XL Winemarus.

XLI Wido de Renhodcurth.

XLII Eudo filius Huberti.

XLIII Ghilo frater Ansculfi.

XLIV Goufridus Alselinns.

XLV Goufridus de Manneville.

XLVI Gil-

XLVI Gilbertus de Gand.
 XLVII Goisfridus de Wirce.
 XLVIII Gunfridus de Cioches.
 XLIX Sigar de Cioches.
 L Suaine Vicecomes.
 LI Siboldus.
 LII Ogerius Brito.
 LIII Drago de Brneria.
 LIV Maino Brito.
 LV Eustachius de Huntedune.
 LVI Jnditha Comitissa.
 LVII Gilbertus Coquus.
 LVIII David.
 LIX Ricardus.
 LX Willielmus & alii Taini.

Ledecestrescire.

I **R** Ex Williemus.
 II **R** Archiepiscopus Eboracensis.
 III Episcopus Lincoliensis.
 IV Episcopus Constantiensis.
 V Abbatia de Burgh.
 VI Abbatia de Coventren.
 VII Abbatia de Cruiland.
 VIII Godvinus Presbyter & alii
 El. mosynarii.
 IX Comes de Mellend.
 X Comes Albericus.
 XI Comitissa Godeva, uxor Comitiss
 Leofrici, qui obiit 1057. or Go-
 deva for Godo, Sister to Edward
 the Confessor, and Wife to Earl
 Eustachius of Bologne.
 XII Comitissa Alveva.
 XIII Comes Hugo.
 XIV Hugo de Grentmatshil.
 XV Henricus de Ferieres.
 XVI Robertus de Veci.
 XVII Robertus de Busli.
 XVIII Robertus Piscator.
 XIX Robertus Hostiarus.
 XX Radulfus de Mortemer.
 XXI Radulfus filius Huberti.
 XXII Wido de Reinbodcurth.
 XXIV Wido de Credune.
 XXV Willielmus Penrell.
 XXVI Willielmus Buenvafsteth.
 XXVII Willielmus Loveth.
 XXVIII Goisfridus Alselin.
 XXIX Goisfridus de Wirce.
 XXX Goisfridus de Cambray.

* Dugd. War-
 wicshire, f 50.
 col. 2.

XXXI Gunfridus de Cioches.
 XXXII Hunfridus Camerarius.
 XXX III Gilbertus de Gand.
 XXXIV Gilbertus.
 XXXV Durandus Malet.
 XXXVI Drogo de Beurere.
 XXXVII Maimo Brito.
 XXXVIII Ogerius Brito.
 XXXIX Nigellus de Albingi.
 XL Jnditha Comitissa.
 XLI Adeliza Uxor Hugonis.
 XLII Herbertus & alii servi.
 XLIII Hugo Comes.
 XLIV Homines Comit. de Mellent.

Warwicscire.

I **R** Ex Willielmus.
 II **R** Episcopus de Cestre.
 III Episcopus de Wirecestre.
 IV Episcopus Baiocensis.
 V Episcopus Constantiensis.
 VI Abbatia de Coventren.
 VII Abbatia de Abendon.
 VIII Abbatia de Bertone.
 IX Abbatia de Malmesburie.
 X Abbatia de Wincelcumbe.
 XI Abbatia de Evesham.
 XII Comes Roger.
 XIII Comes Hugo.
 XIV Comes Albericus.
 XV Comitissa Godeva.
 XVI Comes de Mellent.
 XVII Turchil de Warwic.
 XVIII Hugo de Grentemaishil.
 XIX Henricus de Ferieres.
 XX Roger. de Luri.
 XXI Robertus de Oilgi.
 XXII Robertus statford.
 XXIII Robertus Dispensator.
 XXIV Robertus de Veci.
 XXV Radulfus de Mortemer.
 XXVI Radulfus de Limefei.
 XXVII Willielmus filius Ansculfi.
 XXVIII Willielmus filius Corbation.
 XXIX Willielmus Buenvafsteth.
 XXX Goisfridus de Magneville.
 XXXI * Goisfridus de Werce.
 XXXII Gilbertus de Gand.

* He was of Britany in France, and of the
 family assuming that name, from the Territo-
 ry there, called Guerche, adjoining to Anjou.

XXXIII Gil-

XXXIII Gilbertus filius Turoldi.

XXXIV Gerimus.

XXXV Urso de Abetot.

XXXVI Sreanus.

XXXVII Osbernus filius Ricardi.

XXXVIII Heraldus filius Radi Comitis.

XXXIX Hasculfus Hascot Masard.

XL Nicholans Balistarius.

XLI Nigellus de Albingi.

XLII Christina.

XLIII Levena.

XLIV Eddie.

XLV Ricardus, & alii Taini & Servientes Regis.

XLVI Adeliza Uxor Hugonis.

Statfordscire.

I R Ex Willielmus.

II R Episcopus de Cestre.

III Abbatia Westmonast.

IV Abbatia Bertonsensis.

V Ecclesia Sancti Remigii Remensis.

VICanonicus de Stadford & Handone.

VII Sanson Clericus.

VIII Comes Roger.

IX Hugo de Montgomery.

X Henricus de Ferier.

XI Robertus de Stadford.

XII Willielmus filius Ansculfi.

XIII Ricardus Forestarius.

XIV Rainaldus Balgole.

XV Radulfus filius Huberti.

XVI Nigellus.

XVII Chennin & alii Taini.

Sciropescire.

I R Episcopus de Cestre.

II R Episcopus de Hereford.

III Ecclesia Sancti Remigii.

IV Comes Roger.

V Osbernus filius Ricardi.

VI Radulfus de Mortemer.

VII Rogerus de Laci.

VIII Hugo Lafne.

IX Nigellus Medicus.

Quod reliquum est tenet Comes Roger cum suis hominibus.

Cestre-scire.

Tenet Episcopus ejusdem Civitatis de Rege quod pertinet ad suum Episcopatum cum suis hominibus.

Totam reliquam Terram Comitatus tenet Hugo Comes de Rege.

Terra inter Ripe & Mersham tenuit Rogerius Picaviensis, modo tenet Rex.

This Roger of Poitou was Third Son of Roger de Montgomery, made Earl of Arundel and Shrotonbury by the Conqueror; he had the Title of Montgomery, from a small Town of that name, in the small County of Lictwin, or Lisseux in Normandy, bearing the Title of an Earldom, and when he took the Town of Baldwin in Wales, he called it after his own name Montgomery, where he built the Castle.

Dugd. Baron. Tom. 1. fol. 27. col. 2.

Ibidem col. 1.

Darbyscire.

I R Ex Willielmus.

II R Episcopus de Cestre.

III Abbatia de Bertone.

IV Hugo Comes.

V Rogerus Picaviensis.

VI Henricus de Ferier.

VII Willielmus Penrell.

VIII Walterius de Anicurt.

IX Goisfridus Alselin.

X Radulfus filius Huberti.

XI Radulphus de Burun.

XII Hascot Musard.

XIII Gilbertus de Gand.

XIV Nigell de Stadford.

XV Robertus filius Willielmi.

XVI Roger de Busli.

XVII Taini Regis.

Snotinghamscire.

I R Ex Willielmus.

II R Comes A'anns.

III Comes Hugo.

IV Comes Moritonensis.

V Archiepiscopus Eboracensis.

VI Episcopus Lincolniensis.

VII Episcopus Baiocensis.

VIII Abbatia de Burgh.

IX Roger.

IX Roger. de Busly.
 X Willielmus Peverell.
 XI Walterius de Aincurt.
 XII Goisfridus Alsclin.
 XIII Radulfus filius Huberti.
 XIV Radulfus de Limesci.
 XV Radulfus de Burun.
 XVI Rogerus Pictaviensis.
 XVII Gilbertus de Gand.
 XVIII Gilbertus Tison.
 XIX Goisfridus de Wrece.
 XX Ilbertus de Laci.
 XXI Berenger de Toden.
 XXII Hugo filius Baldrici.
 XXIII Hugo de Grentemaisnill.
 XXIV Henricus de Ferieres.
 XXV Robertus Malet.
 XXVI Durandus Malet.
 XXVII Osbernus filius Ricardi.
 XXVIII Robertus filius Willielmi.
 XXIX Willielmus Hostiarinus.
 XXX Taini Regis.

Rotelande.

I **R** Ex.
 II Juditha Comitissa.
 III Robertus Malet.
 IV Ogerius.
 V Gilbertus de Gand.
 VI Hugo Comes.
 VII Albertus Clericus.

Euruiscire.

I Terra Regis.
 II Archiepiscopi Eboracensis &
 Canonorum & hominum ejus.
 III Episcopi Dunelmensis & homi-
 num ejus.
 IV Abbatis de Eboraco.
 V Hugo Comes.
 VI Robertus Comes de Moritonio.
 VII Alanus Comes.
 VIII Robertus de Toden.
 IX Berenger de Toden.
 X Ilbertus de Laci.
 XI Roger. de Busly.
 XII Robertus Malet.
 XIII Willielmus de Warenn.
 XIV Willielmus de Veci.
 XV Drogo de Holderneffe.

XVI Radulfus de Mortemer.
 XVII Radulfus Pagenell.
 XVIII Walter. de Aincurt.
 XIX Gilbertus de Gand.
 XX Gilbertus Tison.
 XXI Hugo filius Baldrici.
 XXII Erneis de Burun.
 XXIII Osburnus de Arcis.
 XXIV Odo Balistarius.
 XXV Ricardus filius Erfasti.
 XXVI Goisfridus Alsclin.
 XXVII Albericus de Goci.
 XXVIII Gaspatrio.
 XXIX Terra Tainorum Regis.

Lincolnescire.

I **T**erra Regis.
 II Archiepiscopi Eboracensis.
 III Episcopi Dunelm.
 IV Episcopi Baiocensis.
 V Episcopi Osmundi Sarisberiensis.
 VI Episcopi Constantiensis.
 VII Episcopi Lincolniensis.
 VIII Abbatis de Burg.
 IX Abbatis de Westminst.
 X Abbatis de Ramesyg.
 XI Abbatis de Croilande.
 XII Alanus Comes.
 XIII Hugo Comes.
 XIV Ivo Tallesbosc.
 XV Willielmus de Warenn.
 XVI Roger. Pictaviensis.
 XVII Roger. de Busly.
 XVIII Robertus de Toden.
 XIX Berenger de Toden.
 XX Ilbertus de Laci.
 XXI Henricus de Ferariis.
 XXII Willielmus de Veci.
 XXIII Gilbertus Tison.
 XXIV Gislebertus de Gand.
 XXV Hugo filius Baldrici.
 XXVI Colman.
 XXVII Alured. de Lincolnie.
 XXVIII Gualini filius Lamberti.
 XXIX Endo filius Spirwis.
 XXX Radulfus Pagenell.
 XXXI Drogo de Brurere.
 XXXII Walterius de Aincurt.
 XXXIII Normannus de Aldreci.
 XXXIV Normannus Crassus.
 XXXV Erneis de Burun.
 XXXVI Radus de Mortemer.
 XXXVII Ro-

A

B

C

D

E

F

XXXVII Robertus de Veci.	LIV Radus Dapifer.
XXXVIII Robertus Dispensator.	LV Ansgotus.
XXXIX Wido de Renbudcurt.	LVI Judita Comitissa.
XL Raynerius de Brunon.	LVII Wido de Credune.
XLI Osbernus de Arcis.	LVIII Robertus Malet.
XLII Ogerius Brito.	LIX Robertus de Stadford.
XLIII Ranulph. de Sancto Wallerico.	LX Petrus de Valon.
A XLIV Durandus Malet.	LXI Heppo Balistarius.
XLV Martinus.	LXII Radulfus filius Huberti.
XLVI Waldinus Brito.	LXIII Goufridus de Wirce.
XLVII Waldinus Ingeniosus.	LXIV Goufridus Alselinus.
XLVIII Odo Balistarius.	LXV Balvinus Flandrensis.
XLIX Willielmus Blundus.	LXVI Willielmus Tallebofc.
L Restoldi.	LXVII Colegrin.
LI Godfridus de Cambray.	LXVIII Sortebrand.
B LII Gunfridus de Croches.	LXIX Chetelbern, & aliorum.
LIII Osbernus Presbyter.	LXX Regis Taini.

Lancashire:

C All the Lands between the Rivers Mersey and Ribble in Lancashire, which were the greatest part of it, Rogerius Piſtaviensis held them, but at the time of the finishing the Survey, they were in the Kings hands: the other part of Lancashire is described in Yorkſhire.

Westmorland, Cumberland, and Northumberland, are not described, for that they might be at that time in the hands of the Scots, or else in such condition as no Commissioners dare adventure into them, to take the Returns of Juries, and make the Survey.

D Rex Willielmus misit Justiciarios suos per unamquamque Scyram, i. e. Provinciam Anglia & inquirere fecit per Jusjurandum, quot Hyde, &c. Hac autem omnia in Chartis Scripta & delata sunt ad Regem, & inter Thesauros reposita usque hodie servantur. Rad. de Diceto. col. 487. n. 50. This Ralph was Dean of St. Pauls, and flourished about the year 1210. Pissens in that year. De script. Anglicis.

E These very words are transcribed from Henry of Huntingdon, f. 212. a. n. 10. where he describes an Hyde to be Jugera uni aratro sufficientia per annum; he died Anno 1148. in the Reign of King Stephen, 54 years after this Survey was made.

Porro liber ille (meaning this Survey) sigilli regii Comes est individuus in Thesauo: That is the Exchequer, Gervaf. Tilb. lib. 1. c. 28. in fine in lib. Cajo-Gon. p. 41. a.

F Speaking further of this Book, he says, Discretissimos à latere suo destinavit viros per Regnum in circuitu. Ab hiis itaque totius terra descriptio diligens facta est tam in Nemoribus, quam pascuis & pratis, nechon & agriculturis, &c. Fit autem descriptio per Comitatus, per centurias & Hidas prænотato in Capite ipso, Regis nomine, ac deinde seriatim aliorum Procerum, nominibus appositis secundum status sui dignitatem; qui viz. de Rege Tenent in Capite; apponuntur autem singulis numeri,

numeri, secundum ordinem sic dispositi, per quos inferius, in ipsa libri serie, quæ ad eos pertinent, facilius occurrunt, Ibid. c. 29. in lib. Cajo-Gon. p. 41. a. b.

I have shewn in the Reign of the Conqueror, that this Survey was made by Commissioners and Juries; and this Catalogue contains all the Names of such in every County, that held all the Lands of each County of the King, and were most of them *Tenents in Capite*, or *Petit Serjanty*, for 'tis most certain what Sir Edward Coke says: [1] That all the Lands and Tenements in *England*, were holden either immediately or mediately of the King: The Tenents Names are first noted in every County, before the Entrys of particular mens Lands; always the King is placed first, and then the others follow according to the numbers here set down, which in the Survey it self are witten with Red Ink. One Example or two will make it clear.

[1] First In-
duc. f. 65. r. f. 98
a. 2. Inlittur.
f. 501.

Dorsete.

N. XXVI. *Terra Comitis Moritonienfis.*

[2] Domesday
f. 79. a. col. 2.

Comes [2] *Moriton. Ten. Westone & Haimo de eo Godric, & Bruno tenuerunt in Paragio T. R. E. pro ij Maner. & Geld. pro vij Hid. Terra est vj Car. In Dominio sunt ij. Car. & v. servi & xiv villani & vij Bordar. cum i Car. & Dimid. ib. xl Acr. prati & silva Dimid. leu. long. & Tantund. valuit iv lib. modo vii lib.*

Dorsetshire.

The Land of the Earl of Moreton.

THe Earl of *Moreton* holds *Weston*, and *Haimo* of him, *Godric* and *Bruno* held it in *Parage* in the time of King *Edward* for two Maners, and it gelded or was taxed for seven *Hides*, the Land is eight *Carucates* or *Plough-lands*; the *Demeasns* or Lands in the Lords hands, are two *Carucates* and five *Servants*, and fourteen *Villans*, and seven *Bordars* with one *Carucate* and a half, there are forty Acres of Meadow, and Wood half a Mile long, and as much broad, it was valued at four Pounds, now seven Pounds.

This Earl of *Moreton* was half Brother to the Conqueror, and though it is not said in this *Entry* he held of the King, yet his having a *number* before his Title, is enough to shew he was a *Tenent in Capite*, or held otherwise immediately of the King.

Somersete.

N. XVIII. *Terra Hugonis Comitis.*

[3] Ibidem.
f. 91. b. col. 2.

Comes [3] *Hugo Tenet de Rege Tedintone, & Willielmus de eo, Ednod Tenuit T. R. E. & Geld. pro una Hida. Terra est iv Carucat. In Dominio est una Car. & iv Servi & v villani & viii Bordar. cum ii Car. ib. v acr. prati & C Acr. Pastur. & xl Acr. silv. valuit & valet xl solid.*

Somer-

Somersetshire.

The Land of Earl Hugh.

AA **E**arl Hugh holds of the King *Tedinton*, and *William* of him: *Ednod* held it in the time of King *Edward*, and it Gelded, or was Taxed at one Hide, the Land is four Carucates: In Demeasns or the Lords hands is one Carucate, and four Servants, and five Villans, and eight Bordars with two Carucates. There is five Acres of Meadow, and an hundred Acres of Pasture, and forty Acres of Wood, it was valued at 40 s. now as much.

Devenescire.

N. XV. *Terra Comitum Moritonienfis.*

Alured [4] *Tenet de eo Stocherlie, ipse Tenebat T. R. E. & Geld. pro uno ferling. Terra est i Caruc. qua ibi est cum iii Bordar. & ii serv. valet. x sol.*

[4] Ibidem. f. 104. b. i. col.

DC *Godwinus Ten. Childerleia de eo, ipse Tenuit T. R. E. & Geld. pro Tribus Ferling. Terra est i Car. valet. v. sol.*

Devonshire.

The Land of the Earl of Moreton.

D **A**lured holds of him *Stochelie*, he held it in the time of King *Edward*, as it was rated at one Ferling, the Land is one Carucate, which is there, with three Bordars, and two Servants, it is worth 10 s. per annum.

Godwin holds *Childerley* of him, he himself held it in the time of King *Edward*, it was taxed or rated for three Ferlings, the Land is one Carucate, and is worth five shillings.

HE Before the Description of *Shropshire* it is said, and in some other Countries.

HF *Hic* [5] *annotantur Tenentes Terram de Rege in Scitopsire:* Here are noted the Tenents, or such as hold Lands of the King, which were only Nine. And then it follows: *Quod reliquum est Tenet Comes Rogerus, cum Hominibus suis.* The Residue Earl Roger with his men doth hold, and some of the men, or Tenents of Earl Roger, were these underwritten.

[5] *Domesday* f. 252. a. col. 1.

Rainaldus [6] *Nicescomes* held of Earl Roger 63 Towns, Maners, or Farms in *Shropshire*.

[6] Ibidem. f. 254. a. col. 2.

Roger [7] *Fitz-Corbet* held of him 25 Towns, or Maners, with other small Parcels.

[7] Ibidem. f. 255. b. col. 1.

[8] Ibidem
f. 256. a. col. 1.

Robert [8] Fitz-Corbet, held of him fourteen Towns or Maners or Farms.

[9] Ibid. col. 2.

Robert [9] the Butler held of him six Towns or Maners or Farms.

[1] Ibidem.

Roger [1] de Curcell held of him five Towns or Maners or Farms.

[2] Ibidem.

Roger [2] de Laci held of him sixteen Towns and Maners or Farms.

[3] Ibid. b. col. 1.

Robert [3] Filius Tedbaldi, or Fitz-Theobald held of him four Towns or Maners or Farms.

[4] Ibidem.

Ralph [4] Mortimer held of him twenty Towns or Maners or Farms.

[5] Ibidem.

Ranulph [5] Peverel held of him four Towns, Maners or Farms.

[6] Ibidem

William [6] de Waren held of him one Town.

f. 257. a. col. 2.

[7] Ibidem.

William [7] Pantulf held of him 28 Towns or Maners, &c.

[8] Ibid. b. col. 1.

William [8] Maldebeng held of him four Towns or Maners, &c.

[9] Ibid. col. 2.

Turolde [9] held of him thirteen Towns or Maners, &c.

[1] Ibid. f. 258. a.

Picot [1] held of him 25 Towns or Maners, &c.

col. 1, 2.

[2] Ibid. b. col. 1.

Helgot [2] held of him nineteen Towns or Maners, &c.

[3] Ibid. col. 2.

Gerard [3] held of him eighteen Towns or Maners, &c.

[4] Ibidem

Roger [4] Venator the Huntsman, or Venables, held of him six Towns or Maners, &c.

f. 259 a. col. 1.

[5] Ibidem.

Norman [5] held of him six Towns or Maners, &c.

And many others in that County, which held of Earl Roger less quantities of Land.

All that held under the direct and immediate Title of the *Terra Regis*, were the ordinary Tenents of his *Demeasns*, and where it is said *Rex Tenet*, such a Town, he held it in his own hands, and managed it by a *Prapostus* or *Reve* and Servants; and so of other great Tenents *in Capite*; where it is said they held such and such Maners and Towns, without mentioning any *Tenant* that held under them, (unless it were an omission of the Commissioners that took the Survey, or their Clerks, or the Ignorance of the Jury or Inquest, that might not know them) they were most commonly in their own hands, and managed by a *Prapostus* or *Reve* and Servants. If it were otherwise, and the under Tenents were named, it was thus entered.

*Terra * Gisleberti filii Turolidi.*

Gislebertus filius Turolidi Ten. de Rege Chivestoch & Osbernus de eo, Edric Tenebat T. R. E. & geldebat pro una Hida & Dimid. Terra est ii Carucat. Quae ibi sunt in Domin. & ii Servi & ii Bordarii & xx Acr. Prati; & x Acr. Silvae Minute. Olim xx sol. modo val. xxx sol.

The Land of Gilbert Fitz-Turolde.

Gilbert the Son of Turolde holds Chivestoch of the King, and Osbern of him. Edric held it in the time of King Edward, it Gelded or was Taxed for one Hide and a half, The Land is two Carucates which are there in *Demeasn*, and two Servants, and two Bordars, and twenty Acres of Meadow, and ten Acres of small Wood, formerly it was valued at twenty shillings now thirty.

Walterus

* Sumersete,
Domesday, f. 98
a. col. 2.

*Walterus ten. de * G. Tumbeli. Eāric Teneb. T. R. E. & Geldebat pro v Hid. Terra est v Carucat. in Domin. est i Car. & ii Serv. & v Villani & iv Bordar. & iv Coscez. cum iii Caruc. ibi Molendin. redd. xxx Denar. & xxxv Acr. prat. Pastur. i leug. long. dimid. leug. lat. & tantund. silvæ quando Recep. valeb. C. sol. modo tantund.*

* i. e. Gilberto fil. Turolti. ib. f. 98. col. 2.

A Walter holds of G. (Gilbert Fitz-Turol) Tumbeli. Eāric held it in the time of King Edward, it Gelded or was Taxed for five Hides. The Land is five Carucates. In Demeasñ is one Carucate, and two Servants, and five Villains, and four Bordars, and four Cottars or Cotagers, with three Carucs, Ploughs, or Plough-lands. There is a Mill which pays thirty Pence, and 35 Acres of Meadow and Pasture a Mile long, and half a Mile broad, and Wood as much; when he received it, 'twas worth an hundred shillings, and then as much.

B We find under the last Number, in almost every County, *Taini Regis*, or *Servientes Regis*, and often [6] *Chenuin & alii Taini Regis* xvii. [7] *Richardus & alii Taini*, & *Servientes Regis*, N. xiv. [8] *Richardus Ingane, & alii Ministri Regis*, N. lviii. many of them are to be found scattered up and down *Domesday-Book*, and their Employments: as in *Wilschire* Title or Number lxvii. [9] *Terra Odonis & aliorum Tainorum Regis; Forestarii Ten. 1. Hid. in Foresta de Gravelings, &c.* The Land of Odo and other the Kings Thanes.

[6] In Stadfordshire.
[7] Warwickshire.
[8] Oxenfordshire.
[9] Domesday f. 74. a. col. 2.

C The Foresters hold one Hide in the Forest of Gravelings, &c. under the [1] Title of *Terra Servientium Regis*, The Land of the Kings Servants. N. lxvi. *Gundwinus Granetarius*, and *Warinus Arbalistarius*: *Gundwin* that looked after the Granary, and *Warin*, the Crossbow man are to be found. There also are to be found, *Turstin*, and two *Alberics*, and *Odin*, all Chamberlains. [2] *Godwinus Præpositus*, *Godwin* the Kings Bayliff, one that managed his Farms for him in *Dorsete*, under the Title of *Terra Tainorum Regis*, The Land of the Kings Thanes, N. lvi. in the same County, N. lvii under the Title [3] of *Servientes Regis*, *Cubicularius*, & *Pistor*, a Chamberlain and Baker are noted. *Hugolinus Interpres*, [4] *Hugolin* the Interpreter in *Deveneschire*, under the Title of *Terra Servientium Regis*. [5] *Willielmus Portar. & Willielmus Hostarius*. *William* the Porter, and *William* the Door-keeper, and under that Title the Priests or Chaplains were comprehended. [6] *Ipsi Presbyteri ten. Nivetone*, the Priests or Chaplains hold *Newton*. In *Hanteschire* we find *Waleranus Venator*, *Waleran* the Huntsman, *Willielmus Arcuarius*, *William* the Bowyer, *Herbertus Camerarius*, *Herbert* the Chamberlain, *Henricus Thesaurarius*, *Henry* the Treasurer, *Croch Venator*, *Croch* the Huntsman, *Goisfridus Marecallus*, *Geofry* the Marshall, *Nigellus Medicus*, *Nigell* the Physitian, *Aluredus Presbyter*, *Alfred* the Priest, *Durandus Tonsorator*, *Durand* the Barber, and *Ranulph Flamme*; *Goisfridus Camerarius*, filii Regis, *Geofry* the Kings Sons Chamberlain, and *Humfridus Camerarius*, *Humfry* the Chamberlain.

[1] Ibidem f. 74. b. col. 2.

[2] Ibidem f. 84. a. col. 2.

[3] Ibidem f. 85. col. 1.
[4] Ibidem f. 92. col. 2.
[5] Ibidem f. 117. b. col. 1.

[6] Ibid. col. 2.

E Further to shew the meaning of these Titles, *Terra Tainorum Regis*, *Servientium Regis*, & *Ministri Regis*, and to make plain what the Thanes, Servants, and Ministers here meant, were, I will insert an Inquisition of the Serjancies of *Essex* and *Hertfordshire* in the time of King John.

[7] An

[7] Red Book
in the Exche-
quer, fol. 137.

[7] *An Inquisition of the Serjancies and Knights Fees
in the Twelfth and Thirteenth years of King John.*

Essex,

Hertford.

Serjancia eorundem Comitatum.

The Serjancies of those Counties.

Johannes de Listone per Serjanciam faciendi canestellos.
John of Liston by the Service of making Baskets, he held that
Town or Farm so called by that Service.

Richardus Marstallus Tenementum suum custodiendi Palefridum.
Richard the Marshal possessed what he had in those Counties, as
Keeper of the Kings Pad or Riding Nag.

*Willielmus Parmentarius, Tenementum suum in Stebinge per x
solidi.*

William Parmentar, possessed what he had in Stebinge, by ten Shil-
lings Rent. Here ten Shillings Rent is accounted a Serjancy.

*Gilbertus de Mepersthall v. s. in Falestade per manum Gilberti
Mauduit.*

Gilbert of Mapertshall received five Sillings per annum by the hands
of Gilbert Mauduit.

Simon de Asswell dimid. Hide in Asswell per Serjanciam Hostelar.
Simon of Asbwell had half a Hide in Asbwell by the Serjancy of the
Stables.

*Petrus Picot dimid. Heyden per Serjanciam serviendi cum una Toalia
ad Coronationem Regis.*

Peter Picot holds half Heyden by the Serjancy or Service of serving
with a Towel at the Coronation of the Kings.

*Petrus filius Petri Picot aliam medietatem per Serjanciam serviendi de
Bacinis.*

Peter the Son of Peter Picot, holds the other half of Heyden, by the
Service or Serjancy of holding the Bacin or Bason.

Radulfus Monachus Eystan per Serjanciam Lardariae.

Ralph the Monk holds Eystan, by Serjancy of the Lardar, he was
Clerk probably of the Lardar.

*Radus de Tony Wilcomstowe per Serjanciam cundi in propria Persona
cum Domino Rege in exercitum.*

Ralph de Tony holds Wilcomstowe by the Serjancy of going with
the King in his own Person into the Army. 'Tis not said with Horse
and Arms.

*Willielmus filius Johannis Tenementum in Legre per Serjanciam cundi
in exercitum in Walliam cum Domino Rege cum uno equo & facto &
Bracha.*

William Fitz John holds a Tenement in Legre by the Serjancy of
going into the Army with the King, as in the Glossary.

*Radulfus Pacot unam Capudatam in Eidele & unam Carucatam in Sa-
lings per Serjanciam custodiendi unum Nisum ad opus Domini Regis, &
est de Feoda de Raynes ut dicitur.*

Ralph

*See the Glos-
sary, in verbis
istis.

Ralph Picot holds one Carucate in *Eidele*, and one Carucate in *Sallings*, by the Serjancy of keeping one Hawk for the use of the King; and it is of the Fee of *Reynes* as is said.

Gofridus de Barenton dimia' *virgat'* in *Hethfeld* per *Serjanciam custodiendi Parcum Regis & Boscum in eadem villa*.

Geofry of *Barenton* half a Virgate of Land in *Hatfield* by the Serjancy of keeping the Kings Park and Wood in that Town.

A *Walterus de Hanvill* LX sol. Terr. in *Hallingbury de Walla* per *Serjanciam Falconaria* per *Regem Ricardum*.

Walter of *Hanvill* sixty Shillings of Land by the year, by the Serjancy of the Falconry, or of being one of the Serjants of the Hawks, granted by King *Richard*.

Radus Partel LX sol. Terra ibidem per *Serjanciam in Hospitio Regis*.

Ralph Partel by Serjancy or for Service in the Kings House, sixty Shillings of Land, that is 60 s. per annum, in Land of that value.

B *Rogerus de Leyburn*, *Robertus de Sutton* de eo, Bures per *Serjanciam Escaldandi porcos Regis*.

Roger de *Leyburn* holds Bures, and *Robert* de *Sutton* holds it of him, by the Serjancy of scalding the Kings Hogs.

Robertus de Sutton Hundr. de *Berdstaple* per xviii l. ad firmam *Vicecom. ad Feodi Firmam*.

Robert de *Sutton* holds the Hundred of *Berdstaple*, by eighteen pounds in Fee-Farm, towards the Sheriffs Farm.

C *William Torel* tenet in parva *Toriel* per *Serjanciam Naparia*.

Walter Torel holds in little *Torel*, by the Serjancy of or attending upon the Napary.

Boydin Aylet Quatuor lib. Terra in *Bradwell* per manum *Willielmi de Dona* per *Serjanciam Clavia*.

Boydin Aylet hath four Pounds by the year in Land in *Bradwell*, paid him by *William de Dona*, by the Serjancy of the Club or Mace.

Willielmus Cains sex lib. Terra ibidem per *Serjanciam Clavia*.

D *John Cains* hath there six Pounds by the year in Land, by the Serjancy of the Club or Mace.

Johannes de Sandford, *Wolmermerstone* per *Serjanciam in Camera Regina*, & *Fingret & Ginges*, & *Houmede & Huchamstede*.

John de *Sanford* holds *Wolmerston*, *Fingret*, *Ginges*, *Houmede*, & *Hachamstede*, by Serjancy or Service in the Queens Chamber.

Willielmus de Moucell parvam *Angre* per *Serjanciam Marefcalcia de Baronia G. de Toany*.

E *Willielmus de Moucell* holds little *Angre* by the Serjancy of the Marshalse, or Service in the Marshals Office, of the Barony of *G. de Tony*.

Robertus Marschallus unam *Hidam* in *Badem* per *Serjanciam custodiendi Palfridum Regis*.

Robert Marshal holds one Hide in *Badem* by the Serjancy or Service of keeping the Kings Palfry or Pad.

Brianus Aquarius Terram qua fuit *Walteri de Martiwas* in *Writel*, per *Serjanciam Forestaria*, & per xx sol.

F *Brian Waterman* holds the Land which was *Walter Martiwas* his Land, in *Writel* by the Serjancy or Service of the Forest; and by 20 s. Rent.

Gillertus de Mepertshale duas *Hidas* per *Serjanciam Lardinaria*.

Gilbert of *Mepertshal* holds two Hides by Serjancy in the Larder.

Ricardus de Argentoem Willemundele per *Serjanciam serviendi cum una Cuppa Argentea ad Coronationem Regis*.

Richard

Richard Argentan (now *Allington*) holds *Wimondley* by Serjancy, or serving with a Silver Cup at the Coronation of the King.

Henry Major London *Wattoll* per *Serjanciam inveniendi unum peditem in exercitu Regis in Wallia cum Arcu & sagittis.*

Henry the Mayor of *London* holds *Wattoll* by the Serjancy of finding a man with Bow and Arrows in the Kings Army in *Wales*.

Welliclmus Hures *Tenementum suum in Haveringe* per *Serjanciam custodiendi Parcum.*

William Hure holds his Estate in *Haveringe*, by the Serjancy of keeping the Park. A

Johannes Derwine *Tenementum suum ibidem* per *Serjanciam custodiendi forinsecum Boscum.*

John Derwin holds his Estate there, by the Serjancy or Service of keeping a Wood in another place distant from the Town.

Ricardus filius Aucheri *Tenementum suum in Eppinges & Waltham* per *Serjanciam Ateindre coram Rege.* B

Richard Fitz-Aucher holds his Estate in *Eppinge* and *Waltham*, by waiting before the King (as I think) or perhaps, doing some Office before him when he travelled.

Mamgarus le Napper *Terram in Waltham* per *Serjanciam Naparia.*

Mamgar the Naperer holds his Land in *Waltham* by Serjancy or Service in the Napary.

This Inquisition of Serjancies was made in every County in *England* at the same time, they were *Perit Serjancies*, and these Serjants or Servants were the same with the *Thanes*, *Servants*, or *Kings Ministers* mentioned in *Domesday-book*, and the Lands of the same nature with *Thane* Lands there mentioned, &c. C

There are in *Essex*, *Norfolk* and *Suffolk*, three Titles of the same import, and are in no other County, viz. in *Essex* *Invasiones*, N. XC. in *Norfolk* *de Invasionibus*, N. LXVI. in *Sudfult.* *Invasiones super Regem*, N. LXXVI. under these Heads were contained such Lands as were possessed without a Title from the Conqueror. That is, they that held them, were neither put in Possession by the Sheriff with Authority from the King, nor by his Legal or Special Commissioner, nor by his Writ or Brief, and so they were Invaders or Intruders, and possessed without Title, and the Lands called *Invasions*. D

Communia E

F

*Communia de termino Sancti Hillarij Anno XVII E. 3.*Penes Remo-
rator. Domini
Regis in Scacc.*Recorda.*

Prior de Coventr. attachiatus fuit ad reddendum Domino Regi de servitio octo feodorum militum per ipsum Priorem & Prædecessores suos Regi & Progenitoribus suis ab Anno 29. Domini Regis H. Proavi ipsius Regis nunc Substracto & conce-
A lato. Et ipse Prior per Henricum de Stretford Attorn' suum venit. Et super hoc quia Barones plene volunt informari pro Rege per Rotulos & Memoranda Scaccarii de de quibusdam negotium prædictum tangentibus antequam, &c. Datus est dies eidem Priori hic ex assensu Willielmi de Thorpe Servientis Regis a die Pasche in quindecim dies eo statu, &c. Ad quem diem Prior venit & quia
B nondum plene Scrutinium, &c. Datus est dies eidem Priori ex præfixione Cur' in Octabas Sanctæ Trinitatis eo statu, &c. Et interim facto scrutinio Rotulorum, &c. Compertum est in Rotulo 29. Regis Henrici tertii sub titulo de Auxilio ad primogenitam filiam Regis maritandam videlicet de *quolibet Scuto xx s.* contineri Sic Prior de Coventr' reddit compotum de *decem libris* de *decem feodis* de quibus quidem *decem libris* Willielmus Trussel Vicecomes dicti Comitatus in Compoto suo de Anno 32 ipsius Regis Henrici oneratus fuit inter alia debita quæ debebat in fine ejusdem Compoti sicut continetur in magno Rotulo de eodem Anno 32. & in Rotulo 31. ejusdem Regis Henrici compertum est etiam in quodam Rotulo Compotorum titulado Auxilium Episcoporum Abbatum Priorum concessum ad Sororem Regis Henrici maritandam Fredrico Imperatori videlicet de *quolibet Scuto duas marcas* contineri in hunc modum Prior de Coventr' reddit compotum de *viginti maris* de eodem. In Thesaurario octo marcas & debet duodecim marcas de quibus respondet in Warr' in Rotulo 34. Et in eodem Rotulo 34 requirebantur de ipso Priore *quindecim marca* de auxilio ad transfretationem Regis in Vasconiam & *duodecim marca* de auxilio ad Sororem Regis maritandam. De quibus quidem duobus debitis idem Prior postmodum Regi Satisfecit sicut continetur in Rotulis annalibus de annis 36, 39, & 40. dicti Regis Henrici tertii. Item compertum est in rotulo de *Servitio* Regis Edwardi filii Regis Henrici Summoniti apud Rothe-
D lan die Dominica in crastino Sancti Petri ad vincula Anno Regni sui decimo contra Lewelinum filium Griffini & David fratrem ejus & alios Walenses quod Prior de Coventr. recogn' *Servitium duorum feodorum militum* pro quo finem fecit Et in rotulo de finibus factis pro *Servitiis* Scotiæ Anno ejusdem Regis Edwardi tricesimo primo annotatur quod Prior & Conventus de Coventr' recognoverunt *Servitium duorum feodorum militum & finem* fecerunt per *quadraginta libras*. Et in Rotulo de finibus pro *Servitiis* Scotiæ Anno 34. ejusdem Regis Edwardi filii Regis continetur quod Prior de Coventr' per fratrem Johannem Holeweye Commonachum & Attornatum suum recognovit *servitium duorum feodorum militum & finem* fecit pro eodem per *quadraginta marcas*. Et inter *fines* factos in Scaccarii coram tenente locum The-
E

Warr. de Pri-
ore de Coventr.
attach. pro
transgression.

Record 1.

aurarii & Baronibus pro *servitiis* Regi debitis in exercitu Scotiæ Anno Regis Edwardi filii Regis Edwardi septimo, videlicet pro *Servitio unius feodi viginti marcas* continetur quod Willielmus Herle & Robertus de Leicestr' *finem* fecerunt cum Rege pro Priore de Coventr' pro *servitio duorum feodorum militum* per *quadraginta marcas*. Et prædictus Prior ad prædictas Octabas Trinitatis venit ut prius per Attornatum suum prædictum. Et Willielmus de Thorp, & Johannes de Stoford Servientes Regis veniunt pro Rege. Et super hoc expositis præfato Priori hiis quæ per Scrutinium Rotulorum inveniuntur ut supra & per ipsum Priorem auditis & intellectis iidem servientes Regis petunt quod idem Prior super hoc respondeat, &c.

Placitum Prioris.

Et prædictus Prior dicit quod ipse & prædecessores sui tenuerunt omnia terras & tenementa sua tam videlicet ea quæ habet in dominico quam in servitio per *servitium duorum feodorum militum* tantum. Et quod Dominus Rex seu Progenitores sui de aliquibus aliis *servitiis* per ipsum Priorem seu Prædecessores suos nunquam *seisiti* fuerunt per *finem* seu *servitium* per corpora hominum factum quod liquere poterit per Memoranda hujus Scaccarii si fiat inde Scrutinium, &c. Et quoad hoc quod compertum est hic in Rotulis, &c. Quod tempore dicti Regis Henrici tertii computatum fuit de *certis* pecuniæ *summis* de *auxiliis* eidem Regi Henrico ad filium suum militem faciendum & Sororem suam maritandam concessis, hoc ei non prejudicat in hac parte. Dicit enim quod *Auxilia* illa non fuerunt nec censeri possunt esse *Servitia*, immo quædam *subsidia* per *Magnates* & *Communitatem* Regni Spontanea & mera voluntate Regi concessa, & tam de *tenentibus* aliorum quam de *tenentibus* de Domino Rege in Capite levanda quo prætextu dictus Computus de *auxiliis* prædictis fuit tam pro *feodis tenentium* tunc Prioris loci prædicti quam pro *feodis* ipsius Prioris propriis, quod idem Prior dicit posse liquere Curie per Certificationem tunc Prioris loci prædicti tunc Baronibus de Scaccario de mandato Regis Henrici factam de *feodis* quæ ipse tunc Prior tenuit de veteri feoffamento & de novo super quo certificatum fuit quod feoda quæ dictus tunc Prior tenuit in Dominico & feoda quæ tenentes sui de ipso tenuerunt fuerunt in toto decem feoda, &c. Et petit *judicium* desicut ipse tenet omnia terras & tenementa sua per *Servitium duorum feodorum militum tantum*, nec sit compertum hic penes Scaccarium quod Dominus Rex seu Progenitores sui de aliquibus aliis seu pluribus *servitiis* per manus dicti Prioris seu Prædecessorum suorum unquam *seisiti* fuerunt si ipse de aliquo *feodo* seu hujusmodi *servitio* *concelato* impetiri seu calumpniari debet in hac parte. Et super hoc quia dicti servientes Regis volunt super responso suo deliberare, &c. Datus est dies eidem Priori hic in Octabas Sancti Hillarii eo statu, &c. Ad quem diem prædictus Prior venit & ob eandem causam qua prius datus est ei dies ulterior hic a die Pasche in quindecim dies eodem statu quo prius. Ad quem diem idem Prior venit & ob dictam causam adjournatur ulterius usq; quindenam Sanctæ Trinitatis, eo statu, &c. ad quem diem venit & datus est ei dies ulterius usq; Octabas Sancti Michaelis anno viz. decimo nono Regis hujus eo statu quo, &c. Ad quem diem venit & ob causam prædictam adjournatur ulterius usq; quindenam Sancti Hillarii eo statu, &c. Ad quem diem idem Prior venit & habet diem ulterius usq; quindenam Sancti Pasche. Ad quem diem idem Prior venit & adjournatur ulterius ob causam

causam prædictam usq; quindenam Sanctæ Trinitatis. Ad quem diem venit & ob eandem causam habet diem ulterius usq; quindenam Sancti Michaelis. Ad quem diem Prædictus Prior venit & adjornatur ulterius ob causam prædictam usq; quindenam Sancti Hillarii sicut continetur in Memorandis anno vicesimo Regis hujus inter dies datos de Termino Sancti Michaelis.

A

B

C

D

D 2

Claus.

E

F

Claus. 25 E. 1. m. 6. dorso.

Record 3.

* No Direction
in this Writ to
have Citizens,
or Burghesses
chosen.

* His Letters
That this
payment of
the Eighth
part of their
Goods should
be no prejudice
to them for the
future.

R Ex Vicecomiti Eborum Salutem. Quia in relevationem omnium incolarum et populi regni nostri pro octava omnium bonorum singulorum laicorum per totum idem regnum pro urgentissima nunc dicti regni contra Gallicos necessitate levanda concessimus pro nobis et heredibus nostris confirmari et firmiter teneri facere *Magnam Cartam* de libertatibus Anglie et *Cartam* de libertatibus *Foreste* et concedere omnibus et singulis ejusdem regni literas nostras patentes quod dicta *octave* levatio non cedit eisdem in *prejudicium servitutem exheredationem* usum vel consuetudinem in futurum tibi precipimus firmiter injungentes quod sine dilacione aliqua duos de probioribus et legalioribus * *Militibus* Comitatus tui eligi et eos plenam potestatem pro ipsis et tota *Communitate* dicti Comitatus habentes ad Edwardum filium nostrum Carissimum tenentem in Anglia locum nostrum venire fac' Ita quod sint London ad eundem filium nostrum modis omnibus in octabis Sancti Michaelis proximo futur' ad ultimum *Cartas* super Confirmatione nostra *Cartarum* predictarum et * *litteras nostras* super dicta concessione pro ipsa Communitate in forma predicta Recepturi, et *facturi* ulterius quod per dictum *filium* et *Consilium* nostrum ibidem fuerit *ordinatum* et hoc nullo modo omittas et habeas ibi hoc breve Teste Edwardo filio Regis apud Sanctum Paulum London decimo quinto die Septembris.

Consimiles littere diriguntur Singulis Vicecomitibus per Angliam.

In-

*Inter Communia Brevia de Termino Sanctæ Trin.
Anno Regni Regis E. 1. XXXIV.*

A **M**emorandum quod cum nuper Dominus Rex ordinasset quod *Edwardus* Filius suus primogenitus in Festo *Pentecostes* Anno Regno sui tricesimo quarto Cingulo Militie decoraretur & mandatum esset Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus & aliis Magnatibus Regni quod essent coram ipso Domino Rege & Concilio suo apud Westmon. in crastino Sanctæ Trinitat. proximo sequente ad tractandum & ordinandum de auxilio Regis faciendo ad Militiam prædictam & ad Consentiendum hiis quæ ulterius ordinarentur in hac parte vel quod procuratores aut attornatos suos sufficienter instructos ad premissa loco eorum facienda mitterent tunc ibidem.

B Ac etiam præceptum fuisset singulis Vicecomitibus Angliæ quod eorum quilibet venire faceret de Com. suo ad præfatos diem & locum *duos Milites*, & de qualibet Civitate Ballivæ suæ *duos cives*, & de quolibet Burgo ejusdem Ballivæ suæ *duos Burghenses*, vel ** unum* &c. Ad tractandum ordinandum & consentiendum sicut prædictum est.

C Venerunt personaliter coram Rege & Consilio suo apud Westmon. ad diem illum Antonius Bek Patriarcha Jerosolomitæ Episcopus Dunelm. W. de Langeton Coventr. & Lich. Radus de Baldok Lodon Episcopi, H. de Lacy Comes Lincoln J. de Warena Comes Surr. R. de Monte Hermer. Comes Gloucestr. & Hertf. H. de Boun Comes Hereford G. de Bello Campo Comes Warr. Robertus filius Walteri Hugo le Despenfer Johannes de Hastings Hugo de Veer, Willielmus Martyn, Henricus le Tyey, Johannes Lovell, Rogerus de Mortuomari Johannes de Mohum Alanus la Zouche, Will's de Reyburn, & Robertus de Burghersh, Custos Quinque Portuum cum quibusdam Baronibus Portuum eorundem.

D Ac etiam per Procuratores & Attornatos Robertus Cantuar. & Will's. Ebor. Archiepiscopi Thom. Exon Richardus Hereford, Johannes Wynton, Johannes Cicester, Thom. Rossen, Robertus Elyen, Johannes Norwycen, Johannes Lincoln, Simon Sarum, Will's Wygorn, Walterus Bathon, & Wellen, & Johannes Karliol Episcopi, Abbates Westmon. Sancti Edmundi, Sancti Augustini Cantuar. Sancti Albani, Glasstonie, Burg. Sancti Petri Rammeleye, Thorneye, Seleby, & Malmesbury, Sancti Petri Gloucestr. Rogerus Comes Norff. & Marfc. Angliæ Thomas Comes Lancastr, Edmundus Comes Arundell, & quam plures alii Prælati Magnates, & Proceres Regni; Nec non de quolibet Comitatu Regni ejusdem duo Milites & de qualibet Civitate duo Cives & de quolibet Burgo duo Burghenses electi per Communitates Comitatum Civitatum, & Burgorum eorundem ad præmissa loco Communitatum eorundem tractandum, ordinandum & Consentiendum similiter venerunt.

Quibus

Penes Rememorat' Domini. Thef. in Scaccario.
Record 4.

* This Record is cited in Mr. Petric's Appendix, but he hath left out the word Unum, which is also to be found in the Writ of Summons to this Parliament, Cl. 34. Edw. 1. M. 15. Dors. in Ced. T. R. apud Winton, 5 Die April.

Quibus prædictis omnibus *Congregatis* coram *Concilio* Regis prædicto ipsiq; ostenso per idem *Concilium* ex parte Regis quod de Jure Coronæ Regiæ *Auxilium* Domino Regi fieri debuit in casu prædicto; ac etiam quod *expense* multiplices & alia quam plura *onera* eidem Domino Regi incumbunt, ad *rebellionem* & *maliciam* Roberti de *Bras* *Proditoris* ipsius Domini Regis & sibi in partibus *Scotia* adherentium qui adversus ipsum Regem jam in illis partibus *guerram* movere præsumpserunt reprimendas.

* Note, the Prelates, Earls, Barons, and other Great Men, and also the Knights of the Shire, (which were then Doublets, Tenants in Capite, and represented the Tenants in Capite or Community in every County) and that notion consulted and treated with the Earls, Prelates, Barons, and other Great Men, and granted for themselves and the whole Community of the Kingdom, a Third part of their Goods

* Idem *Prelati*, *Comites*, *Barones*, & alii *Magnates*, necnon *Milites* *Comitatuum tractatum* super hoc cum deliberatione habentes considerantesq; *auxilium* deberi ut prædictum est, & quam plura *onera* Regi incumbere propter *guerram* prædictam tandem *unanimiter* Domino Regi *Concesserunt* pro se & tota *Communitate* Regni *Tricesimam* partem omnium bonorum suorum temporalium mobilium quæ ipsos habere contingit in festo Sancti Michaelis proximo futuro habendam pro auxilio eidem Domino Regi competente ad *Miliciam* filii sui prædicti ac etiam in *Auxilium* *Misarum* quas ipse est factururus circa *guerram* prædictam. Ita tamen quod ista *concessio* ipsis vel eorum successoribus aut hæredibus futuris temporibus nullo modo cedat in *præjudicium*, nec in casu hujusmodi trahatur in exemplum & quod in taxando bona prædicta excipiantur omnia que in taxatione Quintedecime a *Communitate* Regni Domino R. Anno Regni suo xviii. concessæ propter exilium Judeorum fuerunt excepta.

* *Cives* quidem & *Burgenses* Civitatum ac Burgorum, ac cæteri de *Dominiciis* Reg. *congregati* & super premissis *tractatum* habentes considerantesq; *onera* Domino Regi *inmumbentia* ut præmittitur eidem Domino Regi *unanimiter* concesserunt ob *causas* supradictas *vicecimam* partem bonorum suorum mobilium habendum ut prædictum est.

* Note in these times the Citizens and Burgesses were not reputed, or taken to be part of the Community of the Kingdom; Nor were the Tenants of the Kings Demesnes, for these treated and consulted by themselves, and gave a different Sum, which was a Twentieth part, viz. a Third part more than the others, which was in those days usual.

Pat. F

Pat. 48. H. 3. M. 6. Dorf.

Record 5.

Hec est forma pacis a Domino Rege & Domino Edwardo filio suo Prelatis & Proceribus omnibus cum *Communitate tota* Regni Anglie communiter & concorditer approbata videlicet quod quedam ordinatio facta in Parlamento Londini habito circa festum Nativitatis beati Johannis Baptiste proximo preteritum pro pace Regni conservanda quousq; pax inter dictum Dominum Regem & Barones apud Lewes per formam cujusdam mise prelocuta compleretur duratura omnibus diebus predicti Domini Regis & etiam temporibus Domini Edwardi postquam in Regem fuerit assumptus usq; ad terminum quem ex tunc duxerit moderandum firma maneat stabilis & inconcussa. Dicta autem Ordinatio talis est.

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This is the Preamble of the Form cited in
the next Record.

Carta 49. H. 3. M. 5.

Forma pacis
inter Regem
& Barones.

Record 6.

* Pat. 48. H. 3.
M. 6. Dor.
Here wants the
Preamble
which is noted
above, Record
5.

Comé Munseur Edward cinez finz nostre Seignor le Rois de Angleterre e munseur Henr. finz le Rois de Alemaine par la volunte nostre Seignor le Rois e la lour se fustent mis *ostages* descre la pes de Engleterre feust bien asermee e asseuree: accorde est pur la pes de la terre meinteuer e pur la deliverance desauant ditz munseur Edward e de munseur Henr. entre nostre Seignor le Roy e eus e les *Barons* de la tere qe le *ordenement* qe fu purueu a Londre par comun acorde des *prelaz* e des *hauz homes* de la tere qe la furent en mois de *Jun* lan nostre Seignor le Rois *xlviime* soit fermement garde e meinteuen la forme qe il estoit purueu qe est icele.*
Ad reformationem status Regni eligantur seu nominentur tres discreti viri & fideles de regno qui habeant potestatem & auctoritatem a Domino Rege eligendi seu nominandi vice Domini Regis Consiliarios *novem* de quibus *novem*, tres ad minus alternatim seu vicissim semper in Curia sint presentes & Dominus Rex de consilio eorundem *novem* ordinet & disponat de Custodia Castrorum & aliis omnibus regni negociis. Preficiat etiam Dominus Rex per Consilium eorundem *novem* *Iusticiarium*, *Cancellarium*, *Thesaurarium*, & alios *officiales* majores & minores in hiis que spectant ad regimen *Curie* & *regni*. Jurabunt autem *primi electores* seu nominatores quod secundum conscientiam suam eligent seu nominabunt Consiliarios quos credent honori dei & ecclesie, regi & regno utiles & fideles. Consilarii quoq; & omnes *officiales* majores & minores in sua creatione jurabunt quod officia sua pro posse suo ad honorem Dei & ecclesie & ad utilitatem regis & regni absq; munere preter esculenta & poculenta que communiter in mensis presentari solent fideliter exequentur. Et si predicti Consilarii vel aliqui eorum in administratione sibi commissa male versati vel versatus fuerit vel fuerint vel sint ex alia causa mutandi vel mutandus, tunc Dominus Rex per Consilium predictorum *trium* nominatorum seu electorum quos vel quem amovendos viderit amoveat & loco eorum vel ejus qui amotus fuerit per eosdem, alios vel alium fidelem & idoneum subroget & substituatur. Si autem *officiales* majores vel minores in officiis suis male versentur Dominus Rex per Consilium dictorum *novem* ipsos amoveat & alios seu alium sine dilatione per consilium predictorum loco illorum vel ejus substituatur. Et si *primi tres electores* seu nominatores in electione vel nominatione Consiliariorum aut alicujus consilarii, aut forte Consilarii in Creatione officialium vel aliis negotiis Domini Regis & regni gerendis seu disponendis discordes fuerint quod a duabus partibus concorditer factum vel ordinatum fuerit firmiter observetur, dummodo de illis duabus partibus *unus* sit *Prelatus* Ecclesie in negotiis Ecclesiam contingentibus. Et si contingat duas partes dictorum *novem* in aliquo negotio non esse concordantes, de discordia illa stabitur ordinationi primorum trium electorum seu nominatorum aut majoris partis eorundem. Et si videatur

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deatur *Communitati* prelatorum & Baronum concorditer expedire quod aliqui vel aliquis loco aliquorum vel alicujus *primorum trium* nominatorum seu electorum subrogentur vel subrogetur aut substituantur Dominus Rex per consilium *Communitatis* prelatorum & Baronum alium vel alios substituat. Omnia autem predicta Dominus Rex faciet per consilium predictorum *novem* in forma subscripta vel ipsi vice & auctoritate Domini Regis, presente ordinatione duratura donec *misa* apud Lewes facta est & postea a partibus sigillata concorditer fuerit adimpleta vel alia forma provisa, quam partes concorditer duxerint approbandam. In cujus rei testimonium Domini R. Lincolnienfis & Hugo Eliensis Episcopi, R. Comitatus Norfolcie & Marescallus Anglie, R. de Veer Comes Oxoniensis, Humfridus de Bohun, Willielmus de Monte Canis Major London Signa sua huic scripto apposuerunt. Datum in *Parlamento* London *mensis Junii* anno Domini MCCLXIV. E que cest ordene-
A ment soit mieuz garde nostre Seignior le Roi doit comaunder e enjoindre e munseur Edward assentir e requere as *hauz homes* e au
B *comun* de la tere par lur lettres overtes que demorrent en chescun Conte que cest ordenement fermement tengent. Estre ceo acorde est que nostre Seignior le Roi, ne Munfir Edward, le Conte de Leyc. ne le Conte de Glouc. ne leur aliez ne les genz de Londres, ou des Cinkporz ne nul que eit este de lur partie, * en queuq; liu ou de queuque
C liu que il soient, ne ascheseveront, ne greveront par achefon des choses que eient este fetes eu tens de troublee eu de la guere que adestee ne a eus damage ne ferent ne procuront ne foseront a fere par leur balifs. E si nostre Seignior le Roi ou Munfir Edward vole venir en
D contre la pes, ele ordenement avantdit, ou les Contes de Leyc. ou de Glouc. ou nul de lur partie grever par achefon des choses avantdites que les *hauz homes* e le *comun* de la tere soient contre eus pur eus grever a tot leur poer, ne ne lur soient obeisant de rien, en facent tot anfi com il ne leur fusent de rien tenuz desqe ces choses soient amendees e a drestees e maintenues solum la forme del ordenement e de la pes avantditz. Sanne ceo que qant les choses seront amendees e a drestees si com il est de suzdit, que touz lur soient obeisaunt e tenu com devant. E nostre Seignior le Roi e munfir
E Edward unt jure sur les seintes Ewangelis e les *hauz homes* e le *comun* de la tere jurront par commaundement nostre Seignior le Roi e par lassentement e la requeste munfir Edward e par leur lettres overtes que nostre Seignior le Roi e munfir Edward e tuz les *hauz homes* de qi len les vodra aver endeiront ices choses a fere e a tenir si com il est avandit. E si issint estoit que acun alast en contre cest serement ou aidast al Roi ou a munfir Edward ou a autre contre ces choses desus escriptes e de ceo soit atteint, par agard du conseil nostre Seignior le Roy e des *hauz homes* de la tere soi pris ou banni du reaume de Engleterre e desheritez lui e ses heirs a remanaunt, e de lur teres soit fet solum les lois e les usages de la tere, ausi come des teres a ceux que sont ateint de felonie. E ceste chose
F est fermement establi par le Roi e munfir Edward e par le *comun* de la tere, e de ceo eit em lettres overtes de tuz ceus que unt este suspectenus en contre ceste boioine que il otreient que issint soit fet si il venent en contre en nul point. E estre ceo les granz Chartres des communes franchises e des forestes que ont plusore foiz este otreies e escomenge tuz iceus que en contre vendroient e les Articles que estoient despeca porueues par acord nostre Seignior le Roie des
E *hauz*

* In quocun-
que loco, vel
de quocun-
que loco.

hauz homes de la tere les queus nostre Seignor le Roi ne ad geres
 qant il estoit a *Wirecestr.* enuoia par toz les *Contees* de souz sun
seel soient fermement tēnuz e ceo unt jurre nostre Seignor le Roi e
 munfir Edward e tuz les Justices Viscontes e Bailifs de la tere e les
 Bailifs nostre Seignor le Roi e de munfir Edward e tuz autres a qi
 qe il soient feront meimes le serement. Issi qe nul ne lur soit tenu
 a obeer devant ceo qe il eient fest cest serement. E si nul venie
 encontre soit grevement puni par agard de la *Cure* le Roi. Sauue
 les privileges a clers si com il apent. E pur ceo qe nostre Seignor
 le Roi devant la bataille de Lewes avoit desie plosurs de ses bone
 gent de sa tere e mis hors de sa foi, e eus par leur bone volentee le
 vollent reconustre derichef com Seignor, accorde est qe tuz iceus
 qe estoient de son homage e estoient diffiez lui facent homage de
 novel solom le usage de la tere. Sauue ceo e espresement, excepe
 qe sil veut venir contre les choses desufdites, qe leu ne lui soit de
 rien tenu pariest homage. Desqe les choses soient amendees, e a dre-
 stees si com il est de sūdit. E ceus qe a feirte lui furent tenuz e
 furent desies deuant lavandite bataille si lui referont feaute de no-
 vel en meimes la manere qe il est dit des homages. Derechef Mun-
 fir Edward avera sa mesnee e ses consailers de genz de la tere qe ne
 soient mie suspecenus, e ceo par acord dil avantdit consaile nostre
 Seignor le Roi, e si il autrement le face qe il en corge le peine de-
 sūz dite, qe tuz ceus de la tere soient contre lui pur lui grever a
 tot leur poeer si com il est dist des articles desūz ditz. E si nul
 demorast en son seruisse saunz lur acord, soit grevement puny par la-
 gard de meimes ceu consail nostre Seignor le Roi. Derechef qe no-
 stre Seignor le Roi ne Munfir Edward ne a trecent mie genz aliens
 en la tere si ce ne soit par acord du consail le Roi e des autres *pro-*
des homes de la tere derechef qe munfir Edward pur la pes de la te-
 re meeuz afermer de mūrge en Engleterre e nomement la ou le bref
 le Roy curt en le tere saunz issir desqe la pasqe qe vent en trois
 aunz si ceo ne soit par acord des prelaz e des *hauz homes* de la te-
 re e de lavandit conseil nostre Seignor le Roi. E si mis aliens ven-
 gent desorenavant en la tere saunz acord del avantdit consail no-
 stre Seignor le Roi e des autres *prodes homes* de la tere qe il lur soit
 apertement mufaut e si issint ne la face ou si il is fors de Angle-
 tere e nomement de la ou le bref le Roi curt en Engleterre saunz le
 acord du consail e des *prodes homes* desūz ditz, qe totes ses teres Sei-
 gnories dignitez e honeurs qe il ad ou aver porra par nun de heri-
 tage, ou en autre maniere soient encorues e qe il e ses heirs soient
 desheritees desavantdites choses a tuz jurs. Issi qe en celes teres
 ne en autres choses desufdites ne puisse chalenger nule manere de
 droit del ore qe il vendra apertement contre sa promesse avant dite.
 Derechef pur ceste chose meuz garder les *chasteus* nostre Seignor le
 Roy e de munfir Edward qe sunt en meinz de gent sospecenus, en
 queque lui qe iceus Chasteus soient, soient baillez par acord de la
 avantdit consail nostre Seignor le Roy a autres qe bien e learment
 les gardent a leus nostre Seignor le Roy e de munfir Edward e a
 sanuate de la tere. Estre ceo nostre Seignor le Roi e Munfir Ed-
 ward feront ces choses avantdites asseurer si com leu purra meuz
 deviser par Ireland par Gascoigne par le Roi de Eschoce e par to-
 tes les teres sūgeites au Roi de Engleterre. Estre ceo nostre Seignor
 le Roi e Munfir Edward unt promis e jure qe il aideront a porluire
 le apeus qe sont fet par les prelaz Contes e Barons e le *comune* de la
 tere

tere de certains gres qe seet, lur sont e a defendre la tere e la pes de la tere contre toz iceus qe mire ou male ou damage querre la vordront e a grever a tut leur poer tuz iceus qe encontre la pes de la tere se tendront. Estre ceo Munfir Edward en promptera de nostre Seignor le Roi Cink de ses chasteus des queus les prodes homes de la tere se tendront a paez les queus ibandraen *ostage* pur lui desq a Cink ans qe il rendra les choses desufditees Ossi qe le Roi ne Munfir Edward in entrerens dedenz ceu tens E ceo jurront par comancement le Roi les Gardeins qe isseront mis E soit purveu renable sustenaunce des deners le Roi as Gardeins de ces chasteus par quoi ils pussent estre sauement garde desqan terme avantdit. E fil avenist qe eus les lessassent encontre si enface lem ceo qe semblera a fere par la agard del avantdit conseil nostre Seignor le Roi e des prelaz e des *hauz homes* de la tere e au definement du terme avantdit si la pes soit bien garde, ices Cink chasteus soient baillez par lavantdit conseil nostre Seignor le Roi a bone gent qe bien e leaument les gardent a leus nostre Seignor le Roy e de ces heirs e a savuete de la tere. Estre ceo nostre Seignor le Roi e Munfir Edward e les *hauz homes* e le *comun* de la tere se sont mis en la jurisdiction des prelaz e oteric qe il escomengent tuz iceus qe contra les choses desufdites ou la pes de la tere vendront ou mettront poine de venir E unt renuncie nostre Seignor le Roi e Munfir Edward e tuz communoument a totes maneres de privileges porchaciez ou apurchacer. E qe du serment avantdit absolucion ne purchacerent ne procuront ne purchace par autre ne receveront ne useront mesqe le Apostoile lenvoiaist par sa auctorite demaine. Estre ceo acorde est qe sauue totes les choses desus escrites tuz les autres ordenemenz e articles qe furent purveu devant cest ore par le Roi e son conseil e les *hauz homes* de la tere les queus sont al honeur de deu e de seinte Eglise a la foi le Roi e au pru du reame soient fermement tenuz. E totes les avantdites choses leaument a fere e a tenir unt jure nostre Seignur le Roi e munfir Edward son finz sus les Seintes ewangel. Estre ce munfir Edward vaudra al Conte de Leycestr. en fie le chastel de Cestre e la vile, e la Contee oue totes les apartenances e le Neschastel sur Lime oue les apartenances e le chastel du pek oue les apartenances si com il les tint e tenir deust sanz nul retenement pur autres terres qe le Conte lui baudra en fie a la value des terres qil tient dautrepart, e des autres terres qe le Conte tient en Engleterre en divers lius linfra la value au plus pres du Conte de Cestre qil poet. E a baille munseur Edward al avantdit Conte le Chastel de Bristend oue la vile e les apartenances a tenir en sa meine en tenance desqe ces choses soient seses Issi qil respoine des renables isseues sauue ceo qil mettra renablement en lagarde e en la sostenaunce du chastel. E ceste chose se doit fere denz un an. E si les choses soient fetes entre Munfir Edward e le Conte de deuz ceu tens le Conte rendra a Munfir Edward le Chastell e la vile oue les apartenances e a donk baudra munfir Edward le chastel en ostage par acord du conseil le Roi e des bone gent de la tere desqa a cinck anz en meimes la forme com il est dit des autres cink casteus qil enprompte du Roi. Sauue Chescun droit e nomement le Chaleng le Conte de Gloucestr. en droit du chastel de Brestead e la vile oue les apartenances. issi qe par le reison del hostage ne soit le Conte de Gloucestr. aloine ne destorbe de sa droiture quant al en vodra parler. En teumoine de ces choses nostre Seignor le Roi e munfir Edward sun finz munfir Henri finz le

The Earl of Leicester gets the Castle and County of Chester, &c from the Kings son.

le Roi de Alemaine e aleur requeste en groinor teumain les honora-
bles peres par la grace dieu Henry de Londr, Wauter de Wirecestr.
Joan de Wincestr. Robert de Durem, Hugl de Ely, Gaut de Saresbir.
Roger de Coventr. e de Lichefeud, Esteuene de Cicelstr. Wauter de
Ba. Guilliam de Landaf Evesques, frere Roger de Veer Prior de
Hospital de Jerusalem en Engleterre, frere Ambolard Mestre de la
Cheivalerie du Temple en Engleterre le Maire e la Comun de Lon-
dres unt mis lur seaus a cest escript qe fu set otteie e acorde en la
forme desufdite a Westmon. au parlement de Londres le utime jur
de mois de marc. lan del incarnation nostre Seignor MCCLX quart.
cest asaver le Mecredy la veile seint Gregor. lan del Incarnation
desufdit.

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Pat. 35 E. 1. m. 45.

A **R** Ex Militibus liberis hominibus et toti Communitati Comitatus Middlesex tam infra libertates quam extra, Salutem. Cum Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, Milites, liberi homines ac Communitates Comitatum regni nostri *tricesimam* omnium bonorum suorum temporalium mobilium *Civesq;* et *Burgenses* ac Communitates omnium *Civitatum*, et *Burgorum* ejusdem regni, necnon Tenentes de *Dominicis* nostris *vicecimam* bonorum suorum mobilium Exceptis hiis que alias in hujusmodi concessione subsidii excipi consueverunt, nobis curialiter concesserint et gratanter, per quod nos nuper ut *vicecima* et *tricesima* predictæ ad minus dampnum et gravamen populi dicti regni nostri levantur et colligantur providere volentes assignavimus dilectos et fideles nostros Richardum de Windesore et Simonem de Kensington vel alterum eorum quotiens ambo ipsimul interesse non possent una cum quodam Clerico quem ad hoc duxissent eligendum et pro quo respondere voluissent ad *tricesimam* et *vicecimam* predictas in Comitatu predicto tam infra libertates quam extra assidendas et taxandas juxta formam ipsis inde ex parte nostra liberatam et ad pecuniam de predictis *tricesima* et *vicecima* provenientem colligendam et levandam et ad Scacarium nostrum certis terminis liberandam, videlicet, in crastino Purificationis Beate Marie proximo futuro et in Octabis Sancte Trinitatis proximo sequentibus et similiter in crastino Annarum ex hinc proximo sequenti pro equalibus portionibus sine dilatione ulteriori. Ac idem Simon quibusdam de causis ad premissa facienda et explenda intendere non possit loco ejusdem Simonis assignavimus dilectum et fidelem nostrum Willielmum de Pountz ad omnia premissa una cum prefato Richardo facienda et explenda in forma predicta. Et ideo vobis mandamus quod prefato Willielmo loco predicti Simonis in premissis omnibus et singulis sitis intendentes et respondentes consulentes et auxiliantes in forma predicta et prout ipse vobis scire faciet ex parte nostra. In cujus, &c. Teste Rege apud Lavertoff primo die Decembris.

Per ipsum Regem.

De 30^{ma} &
20^{ma} assiden-
dis in Comita-
tu Middlesex.

Record 7.

Fi-

Fines 20. E. 3. m. 7.

De auxilio ad
primogenitum
filium Regis
Militem faci-
endum levando.

Record 8.

Rex dilectis et fidelibus suis Vicecomiti Wygornie Thome le Botilten de Upton super Sabrinam Militi et Thome Cassy de Wynch Salutem. Sciatis quod cum in *pleno parlamento* nostro apud Westmonasterium ad diem Lune proximo post festum Nativitatis Beate Marie Virginis proximo preteritum tento Prelati Comites Barones et ceteri Magnates de regno nostro Anglie tam absentes extra idem regnum nobiscum existentes per suas litteras in eodem Parlamento lectas et in rotulo ejusdem parlamenti irrotulatas quam presentes in eodem parlamento viva voce concorditer pro se et tota *Communitate* ejusdem regni nobis concesserint quadraginta solidos de singulis *feodis Militum* in dicto regno nostro Anglie in auxilium ad primogenitum filium nostrum Militem faciendum levandos sicut hujusmodi auxilium alias in casu consimili progenitoribus nostris concessum levare consuevit. Assignavimus vos et duos vestrorum ad predictum auxilium quadraginta solidorum de singulis *feodis Militum* et juxta ratam quadraginta solidorum de partibus *feodorum* hujusmodi infra Comitatum predictum infra libertates et extra tam de *feodis* que de nobis tenentur quam de aliis quibuscumque; ad opus nostrum levandum et colligendum. Ita quod omnes denarios de auxilio predicto provenientes habeatis ad Scacarium nostrum in Quindena Sancti Hillarii proximo futura illi vel illis cui vel quibus eodem denarios liberari mandaverimus liberandos. Et ideo vobis mandamus quod habita deliberatione plenaria super *feodis et partibus feodorum* predictis in Comitatu predicto infra libertates et extra tam per rotulos de consimili auxilio tempore Domini Edwardi quondam Regis Anglie Avi nostri de hujusmodi *feodis* levato quos ad majorem evidentiam de *feodis et partibus feodorum* predictis habendam vobis mittimus sub pede sigilli nostri quam per Inquisitiones inde distincte et aperte quociens opus fuerit capiendas et aliis viis et modis legitimis quibus pro acceleratione premissorum vobis videbitur expedire ad auxilium predictum in dicto Comitatu levandum et colligendum &c. In cujus, &c. Teste Custode apud Turrim London primo die Novembris

Per ipsum Regem ac Custodem et
Consilium.

Claus.

Claus. 7. H. 3. M. 10. Dorf.

Brevia Summonitionum.

A

Vicecomiti Cane' Salutem. Precipimus tibi quod sine dilatione summoneri facias per totam Ballivam tuam *Archiepiscopos Episcopos Abbates Priores Comites Barones Milites et libere tenentes et omnes alios* qui *servitium* nobis debent sive *servitium Militare* vel *Serjantie* quodq; similiter clamari facias per totam baillivam quod sint apud *Wigorniam* in crastino Sancte Trinitatis anno regni nostri septimo, omni dilatione & occasione postpositis cum toto hujusmodi *servitio* quod nobis debent, parati cum *equis & Armis* ad eundem in *servitium* nostrum quo eis preceperimus. T. H. &c. apud Westmonasterium 25 die Maii.

Record 9.

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Eodem modo Scribitur omnibus Vicecomitibus Anglie.

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Postea mutata fuit hec forma in hanc formam.

Forma vic.
Record 10.

REX Vicecomiti Beda & Bucks Salutem. Quia summonitionem factam Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, libere tenentibus et aliis quide nobis tenent in Capite per servicium Militare vel Serjantie veniendi in servicium nostrum cum equis & Armis apud Wigorniam in crastino Sancte Trinitatis prolongavimus de Consilio fidelium nostrorum usq; in quindecim dies a die Nativitatis Sancti Johannis Baptiste anno regni nostri septimo. Tibi Precipimus quatinus eos omnes per totam Baillivam tuam sine dilatione summoneri facias & clamari quod omni dilatione & occasione postpositis sint ad nos cum equis & Armis sicut prius summoniti fuerunt. Teste Rege apud Westmonasterium 26^o die Maii.

Claus. 49. H. 3.
M. 4. Dorf.

Record 11.

This Writ was
all Diffused by
Montfort.

* So he was
forced to call
his best Sub-
jects, when he
was Montforts
prisoner.

REX Johanni Eynill Salutem, &c. Setting forth that Prince Edward had made his escape on Thursday in Whitfun-week in the evening from his Guard with two Knights and four Esquires or Scutifers which with him had contrived his Escape, and was gone to John de Warren and William de Valentia, who without the Kings privity and Will (as is here said) joyned themselves with certain * Rebell-Barons Marchers in Pembrokeeshire, where they intended to joyn with Strangers from beyond Sea. That he should upon sight of these Letters come to the King cum Equis & Armis & toto servitio & posse suo, omni festinatione, Die & Nocte, to go against the Kings enemies as he loved his own life. T. R. apud Hereford. 30 die Maii.

Eodem modo scribitur omnibus tenentibus in Capite, tam Episcopis Abbatibus, Prioribus, quam Comitibus, Baronibus, Militibus, & omnibus aliis, exceptis illis, qui sunt pro parte Comitum Glocestrie.

Rot.

Claus. 4. Hen. 3. m. 5. Dors.

A **R**EX vicecomiti Northamtonie Salutem. Scias quod pro magna necessitate nostra & ingentissima debitorum nostrorum instantia nec non & pro conservatione terre nostre Pictaviensis concesserunt nobis sui gratia communiter omnes *Magnates & fideles* totius regni nostri donum nobis faciendum scilicet de qualibet caruca sicut juncta fuit Crastino beati Johannis Baptiste proximo preterito anno regni nostri quarto *duos solidos* per manum tuam & duorum de legalioribus Militibus Comitatus tui colligendos qui de voluntate & consilio *omnium de Comitatu* in pleno Comitatu eligentur ad hoc faciendum. Et ideo tibi precipimus firmiter & districte injungentes

B quatinus convocato Comitatu tuo pleno de voluntate & Consilio eorum de Comitatu eligi facias duos de legalioribus Militibus totius Comitatus, qui melius sciant velint & possint huic negotio ad commodum nostrum intendere. Et illis tecum assumptis statim donum illud per totam Baillivam tuam facias assignari & colligi de singulis carucis sicut predictum est. Exceptis Dominicis *Archiepiscoporum Episcoporum & Rusticorum suorum* & exceptis Dominicis ordinis Cisterciensis & de Premustr. Et videas quod districte & aperte scias

C nobis respondere in Crastino Sancti Michaelis proximo instantis apud Londinum, quot fuerint in Balliva tua Caruce de quibus donum illud habere debeamus. Et Denarios inde provenientes per manus predictorum duorum Militum & tuam salvo colligi facias venire usque Londoniam predicto die sub sigillo tuo & sigillis predictorum duorum Militum in Domo Novi Templi salvo reponi donec provisorum fuerit quid fieri debeat. Et tu sicut teipsum & omnia tua diligis sic inde te intromittas ne occasione malefacte inquisitionis &

D Collectionis per te & predictos Milites sicut oporteat nos postea districte facere inquisitionem per fideles a Curia nostra missos ad gravem Confusionem tuam & illorum qui tecum interfuerint predictae Inquisitioni & Collectioni faciende. Teste Henrico, &c. apud Oxonium 9 die Augusti.

Eodem modo scribitur omnibus vicecomitibus Anglie.

E

F

F

Pat.

Record 12.

Pat. 15. H. 3 m. 3.

De Immuni-
tate Prelato-
rum Angl.

Record 13.

REX omnibus &c. Salutem. Cum peteremus a Prelatis Anglie quod nobis auxilium facerent pro magna necessitate nostra de qua eis constabat, videlicet, *Episcopis, Abbatibus, Abbatissis, Prioribus, & Priorissis* qui de nobis tenent in Capite ipsi nobis liberaliter concesserunt *auxilium* tale scilicet de singulis feodis Militum suorum 40 s. de tot feodis de quot ipsi tenentur nobis respondere quando faciunt nobis *servicium Militare*. Et nos concessimus eisdem Prelatis quod ad predictum *auxilium* nobis faciendum habeant de singulis feodis Militum quæ de eis tenentur 40 s. Nos igitur nolentes quod ex hac eorum concessione nobis facta de mera liberalitate sua & non alia ratione Ecclesiis suis vel eis vel eorum Successoribus possit prejudicium aliquod gravari vel Ecclesiastice libertati in aliquo derogari, per has literas nostras Patentes hoc duximus protestandum. Nolumus etiam quod propter hanc protestationem nostram quam fecimus aliquid nobis vel heredibus nostris accrescat vel decrescat. In cujus, &c. T. R. apud Westmonasterium 14 die Aprilis, Anno regni nostri 15. Has literas habeant singuli Prelati tam Episcopi quam Abbates Priores Abbisse & Priorisse.

Claus.

Clasf. 19. H. 3. M. 6. Dorso.

REX vicecomiti Somerfet Salutem. Scias quod *Comites & Barones, & omnes alii* de toto regno nostro Anglia, spontanea voluntate sua, & sine Consuet. Concesserunt nobis Efficax *Auxilium* ad magna negotia nostra expedienda. Unde provisum est de Consilio illorum quod habeamus de singulis Feodis Militum que de nobis *tenent* in *Capite* & de *Wardis*, tam de novo *Feoffamento* quam de *veteri*, duas *Marcas* ad *Auxilium* prædictum nobis faciendum, unde providerunt reddere nobis unam Medietatem ad festum Sancti Michaelis Anno decimo nono, & aliam Medietatem ad Pascha, anno &c. 30. Providerunt etiam, quod prædictum *Scutagium* colligatur per Manus Ballivorum suorum in singulis Comitatibus, & tradatur per Manus eorundem, Duobus *Milibus*, Quos ad hoc assignavimus in singulis Comitatibus deferend. ad Scaccarium nostrum Lond. ad liberand. ibidem Thesaurario & Camerariis nostris, & ideo tibi Precipimus quod ad mandatum omnium Comitatum & Baronum & omnium aliorum, Qui de nobis *tenent* in *Capite* in Balliva prædicta modo prædicto sine Dilatione Distringas omnes *Milites & Libere Tenentes* qui de eis Tenent per *Servitium Militare* in Balliva tua ad reddendum Ballivis suis de singulis *Feodis & Wardis* duas *Marcas* ad prædictum *Auxilium* nobis faciendum in Terminis prædictis, & liberandum Johanni de Aure, & Hen. de Meriet quos ad hoc assignavimus in Comitatu tuo sicut prædictum est, &c. Teste Meipso apud Westmonasterium xvii Julii, Anno, &c. XIX.

Record 14.

F 2

Clasf.

Claus. 19. H. 3. M. 8. Dorso.

Record 15.

REX Vicecomiti Suffex Salutem. Scias quod *Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & omnes alii* de Regno nostro Anglia, qui de nobis *Tenant in Capite* Spontanea voluntate sua & sine Consuetudine concesserunt nobis efficac *Auxilium* ad magna negotia nostra expedienda. Unde provisum est de consilio illorum. Quod habeamus de singulis *feodis* Militum & Wardis, que de nobis *Tenant in Capite* duas *Marcas*, ad predictum *Auxilium* nobis faciendum, & unde providerint reddere nobis unam Medietatem ante Festum Sancti Michaelis, Anno Regni nostri 19. & aliam Medietatem ad Pasche Anno Regni nostri 20. Ideo tibi precipimus, quod ad mandatum venerabilis Patris R. Cicerstrensis Episcopi Cancellarii nostri sine Dilatione Distringas omnes *Milites & libere Tenentes*, qui de eo *Tenant per Servitium Militare* in Balliva tua ad reddendum ei de singulis *feodis & Wardis* duas *Marcas* ad predictum *Auxilium* nobis per manum suam reddendum in Terminis predictis.

Sic Scribitur pro aliis *Episcopis, Abbatibus, Prioribus, & Magnatibus*.

Pat. 9 Hen. 3. M. 7. Dorso.

Record 16.

REX Willielmo Basset Radulpho de Crumbwell Willielmo de Vernun, Thome Tuschet, Henrico de Derlegham Canonico Suwell, & Roberto de Lee Clericis, Salutem. Assignavimus vos *Iusticiarios* nostros ad *quintam decimam* omnium mobilium assidendam & Colligendam ad opus nostrum in Comitatibus Noringham & Dereby in hac forma. Vicecomes noster Noringham & Dereby coram vobis venire faciet omnes *Milites* Comitatum suorum die Dominica proximo ante mediam Quadragesimam apud Noringham ad quem diem eligi facieris quatuor legales *Milites* de singulis *Hundredis* vel *Wapentacis* vel plures vel pauciores secundum magnitudinem *Hundredorum* vel *Wapentaciorum* ituros per singulos *hundredos* vel *Wapentachas* ad assidendam & colligendam *quintam decimam* omnium mobilium predictorum, &c.

Rot.

Rot. Claus. 7. H. 3. M. 23. dorso.

Record 17.

R Ex Vicomiri Kaacia Salutem. Scias quod exigente necessitate terre Sancte de novo provisum est & concessum coram nobis & consilio nostro presentibus Archiepiscopo Cantuariensi, Episcopis, Comitibus, Baronibus, & Magnatibus nostris, de communi omnium voluntate quod quilibet comes conferat Domino Regi Jerusalem in auxilium terre predictae iii marcas *Baro* i marcam *Miles* xii denarios quilibet terram excolens i. denarium & quilibet qui terram non habet Catalla habens ad Valentiam dimidia marca tam infra Civitates & Burgo quam exta Similiter i denarium & quicumque de predictis plus dare voluerit det in nomine Domini exceptis omnibus illis qui solummodo de domibus religionis vel personis Ecclesiasticis tenent. Debet autem hec collecta assideri in qualibet villa infra festum beati Thome Apostoli Anno &c. Septimo per duos probos & legales homines & *servientem* ejusdem ville vel *servientes* si plures fuerint Domini in eadem villa & colligi infra festum Sancti Hillarii anno eodem per eosdem & reponi per singulos Comites in domo Templi vel Hospitalii si in Comitatu illo domus Templi non fuerit de qualibet villa in Sacco per se cum summa ejusdem pecunie scripta intus in eodem Sacco & exterius super Saccum Sigillatum cum nomine ejusdem ville debet etiam deferri Londoniam infra xv. dies a festo Sancti Hillarii anno predicto per Templar. vel Hospital. Domus ubi fuerit reposita & Vicecomes ejusdem Comitatus dabit auxilium & saluum conductum ad predictam pecuniam deferendam usque London que ibi reponetur in domo novi Templi per visum illorum quos Magnates nostri ad hoc assignaverunt ut possint scire quid & quantum de terra cujuslibet exierit & summam auxilii totius regni nostri. Et ideo tibi precipimus quatinus collectam illam in Balliva tua assideri colligi & conduci facias usque London sicut predictum est & ita diligenter te intromittas quod negotium illud pro defectu tui non remaneat infectum Set potius diligentiam ex hoc multipliciter habeamus commendatam. Debet etiam hec collecta Civitatum & Burgorum in Balliva tua fieri infra quod eis scribimus & reponi in domibus religionis quas alias eis fecimus nominari per literas nostras ad quam deferendam usque London facias auxilium & conductum sicut facere debes ad illam quam alibi per Comitatum tuum colligi facias & si necesse fuerit ad denarios illos assidendos & colligendos distinctiones facias sicut videris expedire ad hoc preceptum nostrum predicto modo complendum. Teste H. &c. apud Westmonasterium vicesimo quarto die Novembris.

Eodem modo scribitur omnibus Vicecomitibus Anglie.

Rot.

*The Declaration, Ordinance, or Statute of the
Succession to the Crown of Scotland, made at
Scone on the 4th of April, in the third
Year of King Robert the Second, Anno Dom.*

1373.

Record 18.

* They are the
words of the
Transcript.

IN Dei nomine Amen Anno ab incarnatione ejusdem Millesimo
trecentesimo septuagesimo tertio et Regni Regis Roberti Se-
cundi Anno tertio, Mensis Aprilis die Quarto, prefatus Rex
Robertus Secundus in Parlamento suo apud Sconam, Ac cupiens
Incertitudinem Successionis in plerisque Regnis, et parti-
bus contingentem retroactis temporibus vitare pro posse, Et ei
provisum et suis maxime futuris temporibus obviare, Ex Delibera-
to Consilio et cum Consensu et assensu Prelatorum Comitum &
Baronum, Ceterorumque Procerum & Nobilium, ac omnium Allo-
cutorum, De tribus statibus sive Communitatibus totius Regni Congre-
gatorum ibidem, Declaravit, Ordinavit & Statuit, Quod filii ip-
sius Regis ex sua prima & Secunda Uxoribus nunc geniti, et eo-
rum heredes, successive succedent ipsi Regi in Regnum, et in
Jus regnandi per modum infra Scriptum, et sub forma, et Con-
ditionibus infra Scriptis. Videlicet Quod Dominus Johannes pri-
mogénitus ipsius Regis Comes de Carricke ac Seneschallus Scotia
pro cuius successionis Jure in Parlamento immediate precedenti
plene fuerat Declaratum et heredes sui post mortem ipsius sibi
in Regnum, et in Jus Regnandi succedent, Ac ipsi Dominus
Johannes et heredibus Deficientibus forsitan, Quod absit, Domi-
nus Robertus Comes de Rife, et de Monteth filius ipsius Domi-
ni Regis ex prima Uxore secundogenitus et heredes sui in Reg-
num et in Jus Regnandi successive et immediate succedent, et
ipsi Dominus Robertus, et heredibus suis hujusmodi, Deficientibus
etiam forsitan, quod absit, Dominus Alexander Dominus de Bade-
noch filius ipsius Domini Regis ex eadem uxore tertio Genitus,
et heredes sui tantum in Regnum, et in Jus Regnandi, post mor-
tem ipsorum simili modo successive et immediate succedent Ipsi
vero Dominus Alexander et heredibus suis prefatis, similiter for-
sitan Quod absit, Deficientibus, Dominus David Comes de Stra-
thern filius ipsius Domini Regis ex secunda uxore genitus, et ha-
redes sui eisdem sic Deficientibus, Ex toto integrum et in Jus Reg-
nandi similiter successive et immediate succedent; Ipso vero David
et heredibus suis predictis similiter forte Deficientibus, Walterus fi-
lius ipsius Domini Regis frater germanus ipsius Domini David
et heredes ipsius in Regnum et in Jus Regni simili modo succedent.
Predictis autem quinq; fratribus et eorum heredibus ab ipsis
Deficientibus Deficientibus forsitan similiter et ex toto, Quod
absit, verum et legitimi heredes de sanguine et parentela Regali,
Ex tunc in Regnum et in Jus Regnandi succedent. Quibus sic Sta-
tutis, Ordinatis, Declaratis, et actis, omnes Prelati Comites et Ba-
rones ac omnes de tribus statibus sive Communitatibus totius Regni
in

in ipso parlamento ibidem propter hæc et Alia Congregati, *prefatas Declarationem, Ordinationem, & Statutum*, Ratificaverunt et approbaverunt pro se et suis hæredibus perpetuis et futuris temporibus Duraturis. Et Nihilominus infra scripti videlicet *prælati* Domini Willielmus Sancti Andree, Michael Dunkelden; Alexander Aberdonen; Patricius Brechanen; Alexander Muravien; Andreas Dumblanen; Alexander Rossen; et Malcolmus Catenen; Ecclesiarum Episcopi præsentibus, et Apertis sacrosanctis Dei Evangeliiis, ac infra scripti *Comites, Barones et Nobiles*, Primo videlicet ipsi filii Regis seniores, et provectæ ætatis Domini, Scilt *Johanes Robertus, Alexander*, necnon Dominus Willielmus de Douglassæ Georgius de Dunbar Marchiæ, Johanes de Dunbar Moraviæ, *Comites* Thomas de Haya *Constabularius* Scotiæ, Dominus Willielmus de Keith Marefcallus Scotiæ, Jacobus de Lindsey, Dominus de Crawford, Archibaldus de Douglas Dominus Galvidiæ, Jacobus Douglas Dominus de Dalkeith, Robertus de Erskine, Hugo de Eglintonne, Duncanus de Wallays, David de Graham, Walterus de Halyburtonne Willielmus de Dishingtoune, Alanus de Erskin, Alanus de Jacobus de Frazer, Alexander Frazer, Robertus *Seneschallus* de Innermaith, Rogerus de Mortuo Mari, David filius Walteri, Patricius de Grahame, Andreas de Vallibus, Johanes Wallays, Johanes Maxwell, Andreas Campbell, Willielmus de Cunningham filius, et Johanes Strachawhm *Militis*, *Johanes* Kennedy, et Alexander de Cockburn, *Scutiferi*, eisdem sacrosanctis Evangeliiis, et eorum quilibet manu-tactis Corporaliter Juraverunt, Quod prefatas *Declarationes*, *Ordinationes*, et *Satuta* pro se et pro eorum hæredibus inviolabiliter Observabunt et ab aliis pro viribus perpetuo facient observari. Consequenter vero et immediate, Tota Multitudine *Cleri & Populi* in Ecclesia de Scona ante Magnum Altare propter hoc specialiter Convocata, Ac prefata Declaratione, Ordinatione, et Statuto sic Juratis alta et publica Voce, eis Expositis, Quilibet levata Manu per Modum fidei-Dationis in Signum universalis Consensus Totius *Cleri & populi* exprimebat et manifestabat publicè suum consensum pariter et Assensum. In Quorum omnium Testimonium prefatus Dominus Rex presenti Scripto five Instrumento, suum magnum precepit apponi Sigillum, et Ad majorem Evidentiam, et Securitatem pleniorẽ, Omnes *Episcopi, Comites, Barones, & Nobiles* supradicti eidem Instrumento sua Sigilla fecerunt apponi, Gratia Testimonii et ad perpetuam memoriam futurorum: Acta fuerunt Hæc apud Sconam in pleno Parlamento Domini Regis, predictis Anno, Menſe, et Die superius annotatis.

The Three Estates mentioned in this Act of Parliament, were the Bishops, and Clergy first, the Earls and Barons, comprehending all the Barons great and small, were the second Estate, and they all sat together as Tenents *in Capite*, and as the Commissioners for Shires sit with the Barons at this Day for the same reason. But then there were no Commissioners, and all the small Barons came in their own Persons. The Third Estate was the *Burgesses*, of the King's *Burghs*, which held of him *in Capite*.

In

Statut. Rob. 2.
f. 59. a.

Ibid. f. 62. b.

In the Statutes made at *Scone* in the second year of this King *Robert the Second*, the second of *May*, 1372. These three Estates and no others, c. 17. § 3, 4. swear to observe the Laws then made, and to own *John Earl of Carrick* (afterwards King *Robert the Third*) in his Lieutenancy, and as Governor of the Kingdom under his Father. *Omnes & singuli Prelati, Prelatorum procuratores, & alii de Clero; Comites, Barones, & Burgenses, Jura-menta sua Tactis Eu-angelis, personaliter prestiterunt, &c.* here were no Commissioners for Shires, they came in afterwards to Represent the small Barons by a Law made in the seventh Parliament of King *James the First*, A. D. 1420, about Fifty years afterwards. See Answer to Mr. *Petry*, f. 96, 97, 98, 99, 100. And further, that the Burghs make the Third Estate; See Present State of *Scotland*, p. 77, 78.

A Series

A series of Parlements and great Councils in the time of the Saxons before the Conquest, and such as were holden in Normandy before, and after that time, and also of such as were holden in England unto the end of the Reign of Hen. 3d.

B Saxon Councils.

Add these to the Saxon Councils mentioned in the Answer to Mr. Petyt f. 8 D. & f. 9.

C **A**nno Dominice Incarnationis 822 de diversis Saxonie partibus congregatum est Synodale concilium in loco præclaro qui nominatur Clovetho presidente huic venerabili Concilio Beornulpho Rege Mercio: & Wulfredo Archiepiscopo caterisq; Episcopis & Abbatibus, omniumq; dignitatum optimatibus dignitatum Ecclesiasticarum scilicet & secularium personarum.

Spelm. Concil. vol. 1. f. 332. cap. 1. A. D. 822.

Anno Dominice Incarnationis 838. Congregatum est Concilium in loco famoso nomine Kingston presidente eodem Concilio Egberto Rege & filio ejus Athelwulpho; Ceolnotho quoq; Archiepiscopo cum cateris Episcopis Anglie & Optimatibus.

Ibid. fol. 340. A. D. 838.

D King Edgar granted his Charter of Priviledges to Glastonbury Abby, communi Consilio omnium Primatum suorum and in the close of that Charter tis said hanc Privilegii paginam Rex Edgarus apud Lundoniam communi Consilio Optimatum confirmavit.

Monast. Angl. vol. 1. fol. 17. col. 1. n. 10. 40. A. D. 971.

Consilio jussuq; Regis Anglorum Æthelredi, Procerumq; suorum de tota Anglia Robustiores London. Congregati sunt Naves, &c.

Flor. Wigorn. A. D. 992.

Æthelredus Procerumq; suorum Consilio ad Danos legatos misit, promittens tributum & stipendium ut a sua Crudelitate omnino desisterent, de tota vero Anglia Tributum quod erat 16000l. dependebatur.

Ibid. A. D. 994.

E Rex Æthelredus suorum primatum Concilio, & Classem & pedestrem congregavit exercitum.

Ibid. A. D. 999.

Rex Anglorum Æthelredus habito Consilio cum Regni sui Primatibus, utile duxit a Danis dextras accipere, illisq; ut a malis cessarent, stipendium dare & placabile Tributum solvere nec diu post 24000l. illis persolvebantur.

Ibid. A. D. 1001.

F Rex Anglorum Æthelredus Consilio Primatum suorum nuncios ad Danos legans eis nunciare mandavit, quod sumptus & Tributum eo tenore illis dare vellet ut a Rapinis desisterent & Pacem cum eo firmam tenerent, & de tota Anglia Tributum quod erat 36000l. persolvebatur.

Ibid. A. D. 1007.

Æthelredus Rex Anglorum de 310 cassatis unam Triremem, de novem loricam et cassidem fieri per totam Angliam naves intente præcepit fabricari.

Ibid. A. D. 1008.

Rex Anglorum Æthelredus, & Regni sui Primates ad Danos miserunt legatos, pacem ab eis petentes, stipendium & Tributum promittentes.

Ibid. A. D. 1011.

Ibid. A. D.
1012.

Omnes Anglia Primateſ utriuſq; ordinis ante Paſcha Lundon. Congregati ſunt, & ibi tam diu morati ſunt, Quonſq; Tributum Danis promiſſum quod erat 48000l. perſolveretur.

Be Witena Gerædneſſan. Sapientum Decreta.

Spelman. Con-
cil vol. 1.
Concil Enham-
men. General.
f. 513. Temp.
Ethelredi Re-
gis. This
Council was
holden be-
tween the
year of our
Lord 1006 &
1013. Ibid. f.
510.
Ibid. f. 525. in
the old La in
verſion.
* Ibid. f. 513.
Witena Ge-
redneſſe is:
i. e. Sapient-
es Decer-
unt: or the
Decree of the
Wiſemen
is, &c.

Lamb. Ar-
chaionom:
f. 150. ll E. 35.
Tit. Lex Nor.
&c. Hoved. f.
347. a. n. 20.
A. D. 1016.
Flor. Wigorn.
Anno eodem.
f. 618.

Monast. Angl.
vol. 1. f. 295.
Col. 1. n. 30.
Ex Regiſtro
Johannis La-
kingheath iſti-
us loci Mona-
chi.

Monast Angl.
vol. 1. f. 287.
from Cart. 8.
Ed. 2. M. 5. n.
11. per. In-
ſpeximus. vid.
Cart. 7. & 8.
Ric. 2. n. 11.

H*æ ſunt conſtitutiones quas tulerunt Angli eruditi eligerunt etiam & edixerunt inſtanter docuerunt obſervandas.*

This is *Spelman's* Latin verſion, the *Angli eruditi* the Learned Engliſh and the *Saxon Witen* are explained and diſcovered what they were. *Ethelredi Ediſſo concrepante* Archipreſulumq; *Elſearis & Muſſa- ni* hortatu inſtigante univerſi *Anglorum Optimates*, die Sancto Pentecoſtes, ad locum ab *Indigenis Canbam* nominatum acciti ſunt convenire. In ſeveral periods in the * *First Chapter* according to Sir *Hen. Spelman's* verſion there are theſe words, *Decernunt Sapientes*, and in c. 5. 6. 7. They made here many ſecular Laws about Obſervation of the Laws and Peace and Concord. c. 5. Of the Correction and amending falſe Money, of making a Standard for Weights and Meaſures. For Repairing of Towns, Bridges and Caſtles. c. 22. Naval Laws. c. 23. Of ſuch as withdrew themſelves from the Army. c. 23. Of Treason. c. 26. That the greateſt Men that offended ſhould be puniſhed more grievouſly. c. 32 Therefore this is a Compleat Parliament of thoſe times.

Speaking of the Diviſion of the Kingdom between *Edmund Ironſide*, and *Canutus*, tis ſaid, *firmata igitur taliter univerſis Angliæ Pri- maribus aſſenſum præbentibus, inter ſe conventione, primo poſt menſe Edmundus ex hac luce ſubtrahitur.*

Post mortem Edmundi, Rex Canutus, omnes Episcopos & Duces nec non & Principes cunctosq; Optimates gentis Angliæ Lundoniæ congregari juſſit, Qui cum veniſſent ante eum, quaſi neſciens interrogavit eos ſagaciſſime Qui fuerunt teſtes inter eum & Edmundum, quando Con- ventionem amicitie & Diviſionem Regni inter ipſos geſſerunt, &c.

Anno Domini 1024 Canutus Rex Angliæ cum Conſilio & Decreto Archiepiſcoporum, Episcoporum et Optimum ſuorum expulit Cleri- cos inhoneſte viventes ab Eccleſia Sancti Edmundi, et Monachos in illa conſtituit.

Ego Cnut Rex totius Albionis cum Conſilio Archiepiſcoporum, Epif- coporum, Abbatum, Comitum, omniumque aliorum meorum [] Fi- delium elegi ſanciendum, ut Monasterium de Badriceſworde, &c. in a Charter of Priviledges to Bury Abby which was ſo called.*

[*] Theſe could not be all his Subjects but only his *Thegns* and feudal Nobility he here calls *fideles*. This is called *plenum Parliamentum Dominorum Spiritualium & Temporalium* without mention of *Comons* or any other Perſons. Ibid. f. 290. Col. 2. n. 10. from the Regiſt. of the ſame Abby. f. 214.

Anno 1081, finitis placitis, calumniis, et Quereimoniis, quas Ar-
fastus Episcopus, faciebat Baldwino Abbati, de Ecclesia Sancti Edmundi,
&c. die pridie Kal. Junii Apud Wintoniam coram Rege & Principibus
Terre dedit Rex Willielmus Glorioso Regi & Martyri Eadmundo hoc
privilegium.

Ibid. f. 188.
n. 52. A. D.
1081.

A And in this Priviledge it is recited that *Cunte, cum* Communi
A Consilio Archiepiscoporum, Episcoporum, & Optimatum suorum,
(which explains the word *fideles*) did eject the disorderly Priests out
of Bury Abby, and place Monks there.

Ibid. f. 189.
n. 10. 20.

B Then after this he says, that after bearing both sides in this great
Council and Court, *Placuit nobis Consilio Archiepiscoporum, Episco-*
B *porum aliorumq; multorum nobis * fidelium*, to Grant and Confirm,
B &c. Here *fideles*, are the same with *Principes* mentioned in the
preamble to this Priviledge. Which hath the same Date with the
Preamble.

Ibid. n. 40. 50.
The Judges
acknowledg
this a Parlia-
ment in the
year Book, Ti-
tles Con-
tempt 21. Ed.
3. f. 60. n. 7.
* That these
fideles were
Earls and Ba-
rons (see the
year Book in
Temps de W.
Conqueror a
son Parle-
ment, a cert
jour tenu, fut
ordone par le
Roy & par le
Arch Evêque
de Canturb.
& par tous les
autres evêques
de la terre
& Counts
Barons que a
quel heure de
cel &c. Ibid.)
Ibid. Col. 2.
n. 40.

Data pridie Kal. Junii, 1081. Actum Wintonie.

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Norman

Ibid. A. D.
1012.

Omnes Anglia Primates utriusq; ordinis ante Pascha London. Congregati sunt, & ibi tam diu morati sunt, Quousq; Tributum Danis promissum quod erat 48000l. persolveretur.

Be Witena Gerædnessan. Sapientum Decreta.

H*æ sunt constitutiones quas tulerunt Angli eruditi eligerunt etiam & edixerunt instanter docuerunt observandas.*

Spelman. Concil. vol. 1.
Concil. Enhamen. General.
f. 513. Temp. Ethelredi Regis. This Council was holden between the year of our Lord 1006 & 1013. Ibid. f. 510.
Ibid. f. 525. in the old La in version.
* Ibid. f. 513. Witena Gerædnessan is: i. e. Sapientes Decernunt: or the Decree of the Wisemen is, &c.

Lamb. Archæionom: f. 150. ll. E. 35.
Tit. Lex Nor. &c. Hoved. f. 347. a. n. 20. A. D. 1016.
Flor. Wigorn. Anno eodem. f. 618.

Monast. Angl. vol. 1. f. 295.
Col. 1. n. 30. Ex Registro Johannis Lakingheath istius loci Monachi.
Monast. Angl. vol. 1. f. 287. from Cart. 8. Ed. 2. M. 5. n. 11. per. Inspeimus. vid. Cart. 7. & 8. Ric. 2. n. 11.

This is *Spelman's* Latin version, the *Angli eruditi* the Learned English and the *Sapientum* are explained and discovered what they were.

Ethelredi Edicto concerpante Archipræsulumq; Alsearis & Multanti hortatu instigante universi Anglorum Optimates, die Sancto Pentecostes, ad locum ab Indigenis Canbam nominatum acciti sunt convenire. In several periods in the * First Chapter according to Sir Hen. *Spelman's* version there are these words, *Decernunt Sapientes*, and in c. 5. 6. 7. They made here many secular Laws about Observation of the Laws and Peace and Concord. c. 5. Of the Correction and amending false Money, of making a Standard for Weights and Measures. For Repairing of Towns, Bridges and Castles. c. 22. Naval Laws. c. 23. Of such as withdrew themselves from the Army. c. 23. Of Treason. c. 26. That the greatest Men that offended should be punished more grievously. c. 32 Therefore this is a Compleat Parliament of those times.

Speaking of the Division of the Kingdom between *Edmund Ironside*, and *Canutus*, tis said, *firmata igitur taliter universis Angliæ Primaribus assensum præbentibus, inter se conventione, primo post mense Edmundus ex hac luce subtrahitur.*

Post mortem Edmundi, Rex Canutus, omnes Episcopos & Duces nec non & Principes cunctosq; Optimates gentis Angliæ Londoniæ congregari jussit, Quicum venissent ante eum, quasi nesciens interrogavit eos sagacissime Qui fuerunt testes inter eum & Edmundum, quando Conventionem amicitie & Divisionem Regni inter ipsos gesserunt, &c.

Anno Domini 1024 Canutus Rex Angliæ cum Consilio & Decreto Archiepiscoporum, Episcoporum et Optimatum suorum expulit Clericos inhoneste viventes ab Ecclesia Sancti Edmundi, et Monachos in illa constituit.

Ego Cnut Rex totius Albionis cum Consilio Archiepiscoporum, Episcoporum, Abbatum, Comitum, omniumque aliorum meorum [] Fideiium elegi sancendum, ut Monasterium de Badricesworde, &c. in a Charter of Priviledges to Bury Abby which was so called.*

[*] These could not be all his Subjects but only his *Thegns* and *feudal Nobility* he here calls *fideles*. This is called *plenum Parliamentum Dominorum Spiritualium & Temporalium* without mention of *Comons* or any other Persons. Ibid. f. 290. Col. 2. n. 10. from the Regist. of the same Abby. f. 214.

Anno 1081, finitis placitis, calumniis, et Queremoniis, quas Ar-
fastus Episcopus, faciebat Baldwino Abbati, de Ecclesia Sancti Edmundi,
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Ibid. f. 188.
n. 52. A. D.
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Consilio Archiepiscoporum, Episcoporum, & Optimatum suorum,
(which explains the word *fideles*) did eject the disorderly Priests out
of Bury Abby, and place Monks there.

Ibid. f. 289.
n. 10. 20.

B Then after thishe says, that after hearing both sides in this great
Council and Court, *Placuit nobis Consilio Archiepiscoporum, Episco-*
porum aliorumq; multorum nobis * *fidelium*, to Grant and Confirm,
&c. Here *fideles*, are the same with *Principes* mentioned in the
preamble to this Priviledge. Which hath the same Date with the
Preamble.

Ibid. n. 40. 50.
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acknowledg
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ment in the
year Book, Ti-
tles Con-
tempt 21. Ed.
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rons see the
year Book in
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Conqueror a
son Parle-
ment, a cert
jour tenu, fut
ordone par le
Roy & par le
Arch Evêque,
de Canturb.
& par tous les
autres evêques
de la terre
& Counts
Barons que a
quel heure de
cel &c. Ibid. j
Ibid. Col. 2.
n. 40.

C Data pridie Kal. Junii, 1081. Actum Wintonia.

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Norman

Norman Councils holden in *Normandy*.

Neustria pia f.
2 o. Anno
Dom. 996.

Dux inclitus Richardus senio fatigatus, dum ingravescente molestia extremam imminere cognosceret horam, Ducatus sui cunctis congregatis Proceribus, Richardum filium suum vocavit, rerumque suarum omnium heredem & Successorem constituit.

A

Ibid. f. 214

Richardus secundus totius Normanniae Episcopos et viros Nobiles festinus Fiscannium Convocavit et Fiscannensem Sanctae Trinitatis Ecclesiam ab omni Episcoporum Jugo et consuetudine justa vel injusta eripuit et liberavit.

B

Grand. Cu-
stum. f. 1. a
proximo pri-
mo.

The Customary of Normandy written or Established, par le Conseil des Prelates et des Barons et des autres saiges homes.

f. 2. b. Col. 1.

In the Comment on the second Prologue, la custume fut compile a une fois par le Dur, par les Countes, Barons, et Prelates, &c.

Ibid. Col. 2

Et ausi met le text que les Princes de Normendie les loix et Establisments Establirent par le Conseil des Contes Barons Prelates, &c. par quoi il appert clerement quils nen sont pas fateurs, mais Counsellors seulement.

C

Grand. Cu-
stum C. 113.
De brief De-
stable.

The Duke of Normandy having Jurisdiction over the Body's of great and small, because bound to him by Fealty and Allegiance, willing to restrain the Malice of the mighty and puissant, Established two Laws of Recognition by advice of his Prelates and Barons, par le Conseil des Prelates et Barons.

D

Monast. Angl.
vol. 2. f. 960.
col. 1. n. 60.
col. 2. n. 20.
Circa A. D.
1042.
*Ibid. Col. 1.
lin. 4.

Ego Aluredus Gigas in presentia Domini mei Willielmi Comitis, ac omnium Procerum ejus, dedi Deo et S. Vigori, &c. which Duke William confirms in these words, Ego Willermus Normannorum Dux, mea auctoritate coram Episcopis et Baronibus meis confirmo, &c. This was a Norman great Council or Parliament, and was about the year * 1042.

Neustria pia
f. 168. A. D.
1074.

William the Conqueror made Peace and Concord between the Monastery of St. Wandril, and the Earl of Eurenx, cum Consilio Principum suorum.

E

Ord. Vit. f.
552. A. Anno
Domini 1080.

Anno Domini 1080 Rex Gulielmus in Festo Pentecostes apud Illebonam resedit ibique Gulielmum Archiepiscopum, et omnes Episcopos, et Abbates Comitumque cum alijs Proceribus Normanniae simul adesse precepit; ut Rex jussit factum est igitur celebre Concilium apud Jullam-bonam celebratum est; et de statu Ecclesiae Dei totiusque Regni, providente Rege cum Baronum suorum Concilio utiliter tractatum est, annotantur Concilij statuta ut posterius discant, quales fuerunt leges in Normannia sub Gulielmo Rege.

F

Ibid. fol. 22.
A. Anno D.
1106.

In medio Octobris Rex Luxovium venit cunctos Optimates Neustriae convocavit, et utilissimum Ecclesiae Dei Concilium tenuit ibi statuit Regali

gali Sanctione ut firma pax per omnes teneatur fines Normanniae Judicioq; Sapientum irrita fecit, quæ frater suus Ingratis permiserat per imprudentiam.

Note this Council it was soon after the Battle of Tenerchbray, nothing here of introducing the English Laws.

A

*Anno Domini 1107 Rex Henricus Proceres suos convocavit et Robertum de Monte forti, Placitis de violata * fide propulsavit, unde Idem quia reum se sensit, licentiam eundi Jerusalem accepit, totamq; terram suam Regi reliquit.*

Menſe Januario Faleſiæ conſeſſio Procerum coram Rege fuit.

B

Menſe Martio Idem Rex Concilium apud Luxovium tenuit, et neceſſaria Subjectis Plebibus Ediſta, ex conſultu Magnatorum provide Sanxit.

Nonis Octobris Concilium Rotomagi congregatum eſt, ibi Rex Henricus de pace Regni tractavit cum Radulpho Cantuariæ Archiepiſcopo, alijsq; Baronibus quos aggregaverat. At this Council were all the Biſhops and great Abbats of Normandy.

C

Robert Duke of Normandy ſent his Envoys to Canute to receive into England Edward and Alured Couſin Germans, the two Banished Sons of his Aunt Emme they returned without effect, at which the Duke being very Angry, Convocatis Ducatus ſui Principibus, juſſit magnam navium Claſſem fabricari, Quam ex omnibus Normannici maris partibus coactam, et infra exigui temporis Spatium in Anchoris, Armis, hominibuſq; Robuſtiſſimis diligenter inſtructam ſtare apud Ficcannum in littore Ponti fecit.

D

This certainly was a Parliament, or great Council of Normandy which he called, to conſult about making War with Knute, and providing Ships and men accordingly.

Henry the 2. When he heard King Stephan was dead, Convocatis fratribus ſuis Gualfrido et Willielmo et Episcopis et Opifmatibus Normanniae, venit Barbe fluvium.

E

Menſe Julio Henricus Rex Anglorum congregavit omnes Episcopos Normanniae, et Abbates et Barones apud Novum Mercatum, et Ludovicus Rex Francorum adunavit ſuos Belvais, et ibi tractatum eſt de Receptione Papæ Alexandri, et Reſutatione victoris, et conſenſerunt Alexandro Reſutato victore.

F

1161. Prima Dominica Quadrageſimæ Rex Hen. congregavit Episcopos, Abbates, Barones totius Normanniae, apud Rothomagum, et Querimoniam faciens de Episcopis et eorum miniſtris, et vicecomitibus ſuis, juſſit ut Concilium Julia bonæ teneretur.

See Hoveden Anno Domini 1189, Richard the Firſt called a Council or Parliament of the ſame Perſons in Normandy, That year.

The Sapien-
tes were Lawyers
and the Judg-
ment was ac-
cording to the
Fendal Law,
for by ingra-
titude Fees
were certain-
ly loſt.

Ibid. f. 823. C.
A. D. 1107.

* This was al-
ſo a Fendal
Action and
Tryal for
Breach of
Faith, which
was Ingrati-
tude.

Ibid. f. 831.
D. Anno. co-
dem.

Ibid. f. 831.
832. Anno co-
dem.

Ibid. f. 846. B.
C. A. D. 1118.

Gemet. Lib.
vi. c. 10.

Canutus Reg-
nare incepit
A. D. 1117
Deſijt A. D.
1135.

Cbron. Nor-
man.
Ibid. A. D.
1153. f. 990. C.

Ibid. f. 997.
A. B. A. D.
1159. Tem-
pore Hen. 2.

Ibid. f. 998. A.
Anno D. 1161.
Tempore
Hen. 2.

1. Ric. 1.

Engliſh

English great Councils or Parliaments.

Sim. Dunelm.
Col. 103. li.
4. A. D. 1070.
4. Willielm.
primi.

Monast. vol. 1.
l. 44. A. D.
1084. Gul.
primi 18.

Falm. Hist. lib.
4. f. 6. l. 2. & n.
10. A. D.
1093. 6. Gul.

Ibid. lib. 2. f.
38. lin. 6. A. D.
1096. 9. Gul. 2.

Fadm. f. 62. n.
10. A. D.
1101. 2.
Hen. 1.
Ibid. f. 65. n.
10. A. D.
1101. 2. H. n. 1.
Ibid. f. 67. n.
10. 20. A. D.
1102. festo
Sancti Mich.
3. Hen. 1.

Flor. Wigorn.
f. 65. 1. A. D.
1102. Sec Ho.
v d f. 1. 9. a
n. 30. 3. Hen. 1.

Fadm. f. 70. n.
20. A. D. 1102.
3. Hen. 1.

*Ileff. Nobil.
tatem.

AT Pededra the Controversie between Wulstan Bishop of Worcester, and Thomas Arch-Bishop of York, in Concilio celebrato coram Rege, ac Dorobernie Archiepiscopo Lanfranco, et Episcopis, Abbatibus, Comitibus, et Primaribus totius Anglie terminata est. This by Selden is acknowledged a Parliament.

In a Charter of King William the First, for changing the Canons of Durham into Monks. *Hec Carta confirmata est apud Westmonasterium in Concilio meo Anno Regni 18. Presentibus omnibus Episcopis et Bar. nibus meis.*

Anselmus igitur, Salva ratione sua, quam de Subjectione et obedientia Romana Ecclesia in medium tulerat, petiuit inducias ad istius rei examinationem quatenus Episcopis, Abbatibus, cunctisque Regni Principibus una coeuntibus communi assensu definiretur, utrum Salva reverentia et obedientia sedis Apostolica posset fidem terreno Regi servare, annon. Dantur ergo inducia, atque ex regia Sanctione ferme totius regni Nobilitas quinto Id. Martij pro ventilatione istius cause in unum apud Rechingheam coit.

Insequenti autem mense Augusto cum de statu Regni acturus Rex Episcopos, Abbates, et quosque Regni Proceres, in unum Præcepti sui sanctione egisset, &c.

Episcopis Ferras Principibus Wintonie sub uno Coactis, Rex adunatis Lundonie Principibus Regni.

Annunte Rege celebratum est Concilium communi assensu Episcoporum, Abbatum, et Principum totius regni, and these altogether are there called Primates Regni utriusque ordinis.

In festivitate Sancti Michaelis Rex fuit apud Westmonasterium, & cum eo omnes Principes Regni sui, Ecclesiastici & Secularis ordinis, ubi Anselmus tenuit magnum Concilium, i. e. præsidebat.

In the Controversie about Investitures, King Henry the 1st. spake to Arch-Bishop Anselm privately to have gone to Rome to have inclined the Pope to an amicable compofure in the Controversie about Investitures. He thus answered the King. *Differantur hæc si placet usque in Pascha in audito Episcoporum regniq; Primatum Consilio, qui modo non assunt, Respondeam hinc. Igitur in Pascha Curiam venit, Regni* Ingenuitatem de negotio præsens consuluit, communis Consilii vocem unam accepit, æquum scilicet fore illum Tantæ rei gratia vix laborem debere non subterfugere.*

Adunatis autem ad Curiam Regis in Pascha Terra Principibus.

This

This Council was twice Prorogued, and when it met *Calend. Augusti* 'tis called

Conventus Episcoporum Abbatum et Procerum Regni in palatio Regis Lundoniae.

A Of this very Council *Eadmer* in the Life of *Anselm* says,

Adunatis in palatio Regis Londini cunctis Primoribus Anglie.

And of this Council *Eadmer* says, *Anselm* demanded subjection of *Gerard* Arch-Bishop of *Tork*,

B *Coram Rege, Regniq; Episcopis atq; Principibus.*

Adunatis ad curiam suam in Solennitate Pentecostes cunctis Majoribus Regni unde Anselmus & Thomas Eboracensis Electus & omnes alii Anglie Episcopi statuerunt in presentia Regis assensu omnium Baronum suorum, ut, &c.

C *Rex Henricus tenuit Curiam suam in festiuitate Pentecostes apud Londinum cum Episcopis & regni Principibus. Caput agere quid esset agendum.*

In subsequenti Natiuitate Domini Regnum Anglie ad Curiam Regis Lundoniae pro more conuenit, et magna Sollemnitas habita est et sublimis.

D *Episcopos et Principes Anglie in unum apud Windeshoram venire fecit, to choose an Arch-Bishop instead of Anselm. 'Tis said of this Meeting which was Kalend. Maii 1114, nuper adunato Conuentu totius Anglici Regni, &c. and what this Conuentus totius Regni was we are told in the same Epistle. Huic Electioni affuerunt Episcopi, Abbates et Principes regni, et ingens populi multitudo. The ordinary people came to shout and make a noise at such meetings, and for good Victuals and Drink.*

Eodem Anno Rex iussit omnes Episcopos et Principes totius Regni ad curiam suam sub uno venire apud Westmonasterium.

E *13 Kalend. Aprilis factus est Conuentus Episcoporum, Abbatum et Principum totius Regni apud Sarisberiam cogente eos illic Sanctione Regis.*

Conuentus Optimatum & Baronum totius Anglie apud Saresbiriā 14 Kalend. Aprilis factus est.

F *Comites & Barones totius Anglie apud Salesberiam conueniunt Cal. Aprilis.*

Episcopi Abbates et Nobiles quiq; Lundoniae adunati sunt presente Regina, communi Consilio Tractaturi.

Rex legalis Coniugii nexu olim solutus, ne quid ulterius inhonestum committeret, Consilio Radulphi Archiepiscopi, et Principum Reg-

Ibid. f. 90. n. 30. A. D. 1107.

4 Several ways of expressing the same great Council by the same person. 1st. to WhitSunday. Ibid. n. 40. 50. then to the 1. of August. 8. Hen. 1.

Ibid. f. 91. n. 20. Eadmer in vita Anselm. Lib. 2. f. 30. Colon. 1473.

Hist. f. 91. n. 40.

Eadmer. f. 94. n. 50. A. D. 1103.

Ibid. f. 97.

lin. 1. 9. Hen. 1.

Ibid. f. 102. n. 50. A. D. 1109. 10. Hen. 1.

Ibid. f. 105. lin. 3. circa. Annum Domini 1109.

Ibid. f. 109. n. 30.

A. D. 1111.

Ibid. f. 110.

n. 20. 30.

Ibid. f. 111.

n. 50.

Ibid. f. 112.

lin. 4. 14.

Hen. 1.

Ibid. f. 114.

n. 30. A. D.

1114. 16.

Septembris.

Ibid. f. 117.

n. 30.

A. D. 1115.

17. Hen. 1.

Flor. Wigorn.

f. 657. A. D.

1116. 16.

Hen. 1.

Hoved. f. 271.

b. lin. 8.

Eadmer. f. 118.

n. 20. A. D.

1116.

Mense Augusti. 17.

Hen. 1.

Great Councils and Parliaments

Flor. f. 459.
A. D. 1121.
the same
words
22. Hen. 1.
Garvas. Doro-
bern. col.
1662. n. 30.
A. D. 1122.
23. Hen. 1.

F. 669 lin. 7.
A. D. 1123.
begin the year
at Christmas.
23. Hen. 1.

Malsb. f. 92.
b. n. 40.

Ricard. Hagul-
stad. col. 314.
n. 10. A. D.
1136.
1. Stephani.

Flor. Wigorn.
f. 668. A. D.
1138.
3. Stephani.

Hen. Hunt. f.
226. b. lin. 3.
A. D. 1151.
16. Stephani.

Chthon. Norm.
A. D. 1152.
17. Stephani.

Joh. Brom-
ton. col. 100.
n. 50. ultimo.
Steph. A. D.
1154.

Glanv. Lib. 13.
13. c. 32.
Tempore
Hen. 2.
Hen. 2. began
his Reign.
Tempore
Hen. 2. A. D.
1154.
Ibid. Lib. 2. c.
7. Temp. Hen-
rici Secundi.
Anno Domini.
1164.
16. Hen. 2.
Gervas. Do-
robern. col.
1385. n. 60.
10. Hen. 2.
Quadrileg.
Lib. 1. c. 26.

ni Quo: omnes in Epiphania Domini sub uno Lundonia congregavit de-
crevit sibi in uxorem, &c.

2 Febr. factus est Conventus Episcoporum Abbatum ac Procerum
ex precepto Regis apud Glocestriam pro substituendo Pontifice loco de-
functi.

This Council thus expressed by the Continuer of *Florent. Wigorn.*

Vir eximie Religionis Willielmus Canonicus Sancte Osgitha de Cice
ad Archiepiscopatum Cantuariensem Glawornia, ubi in Purificatione Bea-
te Marie Rex tenuit Curiam suam eligitur.

Coactio apud Lundoniam magno Episcoporum Procerum et Abba-
tum Consilio, multa ecclesiasticarum et secularium rerum ordinata Ne-
gotia decisa litigia.

Stephanus in Regno confirmatus, Episcopos et Proceres sui Regni
regali edicto in unum convenire precepit: cum quibus generale Concilium
celebravit.

Rex Anglorum Stephanus in Octabis Pasche Quod erat quarto Idus
Aprilis tenuit Concilium Northamptonie cui presidebat Turstinus Ebo-
racensis Archiepiscopus, Episcopi, Abbates, Comites, Barones No-
biles quique per Angliam.

Anno 16 Regis Stephani, Tedbaldus Cantuariensis Archiepiscopus,
et Apostolica sedis legatus, tenuit Concilium generale apud Lundoniam,
ubi Stephanus Rex et filius suus Eustachius, et Anglie Proceres inter-
fuerunt.

Upon agreement of King Stephen, and Henry Duke of Normandy
Rex primo recognovit in Conventu Episcoporum, Comitum, et ali-
orum Optimarum hereditarium Jus Henrici, &c.

Stephanus Rex in festo Sancti Michaelis cum Episcopis et Opti-
matibus terre Concilium tam pro Regni negotio, quam provisione Ec-
clesie Eboracensis, &c. Lundonia celebravit.

Cum quis Itaque infra Assisam Domini Regis, i. e. infra Tempus a Do-
mino Rege de Consilio Procerum ad hoc constitutum. About making
a Law for Establishing the Tryal and Recognition of Novel Dis-
seisin.

Est autem magna assisa Regale quoddam Beneficium clementia Princi-
pis de Consilio Procerum populis indultum.

The Council at Clarendon about Becket's affair.

Congregati sunt Praefules et Proceres Anglicani Regni apud Claren-
doniam in festivitate Sancti Hillarij.

Rex apud Clarendum Regnum convocat uniberfum Quo cum venis-
sent Praefules et Proceres, exegit Rex instantius ut sibi promissa sol-
verentur, &c.

Apud

- Apud Clarendunam coram Rege & Magnatibus facta est Recordatio Regiarum Libertatum et Consuetudinum. Cui qui Thomas Cantuariensis Archiepiscopus, &c.
- Convocatur Concilium generale apud Clarendonam Rex proponit, &c. Convocato Clero et populo apud Clarendon.
- A** Anno Domini 1164. 10 Henrici Secundi in presentia Regis apud Clarendon. 8. Calend. Febr. presidente Johanne de Oxonia de mandato ipsius Regis, presentibus etiam Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, et Proceribus Regni, facta est Recognitio, &c. Ex mandato Regis, concurrentibus Episcopis et Proceribus, apud Clarendone 8. Kalend. Febr. 1164. post immensos Tractatus, &c.
- The Council at Northampton the year following.
- Anno Gratie 1165. qui erat Annus undecimus Hen. Secundi, idem Rex magnum congregavit Concilium apud Northampton.
- B** Rex postmodum aliud generale edicit Concilium apud Northampton locum designans, &c.
- Convenerunt Episcopi, Comites, Barones totius Regni, mandato Regis urgente apud Northampton 3. Idus Octob. 1165.
- Rex Angliæ præcepit Præsules et Proceres regni apud Northamptoniam una cum ipso Archiepiscopo convenire.
- C** Præter Tempus, locus etiam determinatur, nobile, videlicet, illud Regium Castrum, quod dicitur. Northampton ad diem igitur et locum hunc ex Edicto Regio, Regni Pontifices universi, et Proceres districtissimè convocantur.
- Rex aliud generale edicit Concilium apud Northamptonam.
- Rex Angliæ congregatis apud Windeshores in octabis Sancti Michaelis Archiepiscopo Cantuariensi et Episcopis Angliæ et Comitibus et Baronibus, Terræ suæ coram Henrico filio suo et coram Laurentio Archiepiscopo Dublinensi.
- D** Rex Henricus pater magnum celebravit Concilium apud Windeshores in Octabis festi Sancti Michaelis. Presentibus Rege filio, et Richardo Cantuariensi Archiepiscopo, et Episcopis Angliæ, et coram Laurentio Dublinensi Archiepiscopo, presentibus etiam Comitibus, et Baronibus, Angliæ. In quo Concilio, &c.
- Dominus Rex apud Northampton magnum celebravit Concilium in festo Conversionis Sancti Pauli de Statutis Regni coram Rege filio suo, et coram Archiepiscopis, Episcopis, Comitibus et Baronibus regni sui.
- E** Dominus Rex magnum celebravit Concilium apud Northampton de Statutis Regni sui circa festum Conversionis Sancti Pauli, coram Episcopis et Comitibus et Baronibus Regni sui. Et coram eis per Consilium Regis Henrici filii sui, et per Consilium Comitum et Baronum, et militum, et hominum suorum, &c.
- Circa festum Sancti Pauli Rex Northampton veniens, ibi cum Episcopis, Comitibus, et Baronibus suis Angliæ magnum celebravit Concilium de Statutis Regni.
- F** Habito igitur Consilio Londoniis Rex pater Consilio universorum Episcoporum, Comitum & Baronum Regni, concessit Regi Sicilia filiam suam.
- Rex congregatis in urbe Londoniarum Archiepiscopis, et Episcopis et Comitibus et sapientioribus regni sui, consuluit eos Quid tam magni regis nuntiis r sponderet, &c. who came to demand his Daughter Johanna for William King of Sicilie. Sapientiores instead of Barones.

Mat. West.
m. n. f. 248.
n. 50. A. D.
1165.

Fits. Steph.
p. 20.

Hoved. f. 281.
b. n. 10.
Mat. Paris. f.
100. n. 20.

Rad. de Dic-
to. col. 536.
n. 50.

Note, all these
old Monks be-
gin the year
at Christmas.

Hoved. f. 283.
a. li. 7. 10.
v. l. 11. Hen. 2.
Ben. abbas. p.
21.

Rad. de Dic-
to. col. 537.
n. 10.

Gerv. Dorob-
ern. col.
1389. n. 30.
Quad. illog.
Lib. 1. c. 30.

Fits. Steph. p.
21.
Ben. Abbas. p.
70. a. A. D.
1175.
21. Hen. 2.

Roger Hoved.
f. 312. b. n. 10.
Anno eodem.

Ibid. f. 313. a.
n. 50. A. D.
1175.

Ben. Abbas.
p. 72 b. A. D.
1175.

Bromton. col.
1108. n. 10.
A. D. 1175.

Hoved. f. 315.
a. n. 10. A. D.
1176.

22. Hen. 2.
Ben. Abb. p.
77. a. A. D.
1176. the ve-
ry words of
the Historian
22. Hen. 2.

Hoved. f. 320.
a. n. 30. A. D.
1177.
23. Hen. 2.

Bcn. Abbas. p.
84. a. Anno
eodem.

Rex Angliæ Pater celebrato Concilio generali apud Northampton post festum Sancti Hillarii, &c.

Rex Angliæ statim post festum Sancti Hillarii venit Northampton, et ibi magnum celebravit Concilium, cum Episcopis et Comitibus, et Baronibus regni sui.

In the Controversie and claim between the Kings of Castile and Navarre, referred to the Court of the King of England.

Hoved. f. 310.
b. n. 40. A. D.
1177.

Prima die Dominica Quadragesimæ venit Rex Landonis generale Concilium celebraturus, cui interfuerunt, Episcopi, (there named particularly) Abbates, Priores, Comites, et Barones Angliæ.

Bcn. Abbas. p.
86. b. A. D.
1177.

Rex misit nuntios suos per totam Insulam Angliæ, et mandavit Archiepiscopis, Episcopis, Comitibus et Baronibus totius Angliæ Quod essent ad eum apud Landoniam Dominica prima post caput Jejunii.

Hoved. f. 337.
a. n. 20, 30.
A. D. 1179.
25. Hen. 2.

Dominus Rex pater celebrato magno Concilio apud Windeßhores communi Concilio Archiepiscoporum, Episcoporum, Comitum, et Baronum, coram Rege filio suo, divisit Angliam in quatuor partes: et unicuique partium, prefecit viros Sapientes ad faciendam Justiciam in terra. Sapientes hære for Judges, or Itinerant or Circuit Justices.

Hoved. f. 376.
a. n. 30. A. D.
1189. 1. Ric. 1.

Ricardus Rex Angliæ et Comites, et Barones sui qui crucem susceperant in generali Concilio Constituti apud Landoniam Juraverunt, &c.

Fol. 195. n. 10.
Anno Eodem.

And about the same busines Mat. Paris thus. *Rex Angliæ Convocatis Episcopis & Regni proceribus apud Westmonasterium, a nunciis prædictis accepto Sacramento, &c.*

Hoved. fol.
418. B. n. 10.
Anno. 1194.
5. R. Ricardi.
Ibid. fol. 419
A. n. 20.

Richardus Rex Angliæ convocatis coram eo Episcopis Comitibus et Baronibus Regni ostendit eis Literas Comitibus Johannis et earum Tenorem.

Martii 30. feria 4. Richardus Rex Celebravit Concilium apud Nottingham, cui interfuerunt Alienora Regina Mater ejus, Archiepiscopi, Episcopi, Comites, ubi postulat Judicium fieri de Comite Johanne.

Ibid. B. n. 40.

11 Aprilis Rex Angliæ Habito cum Episcopis & Comitibus & Baronibus suis cum deliberatione Concilio apud Northampton, &c.

Matt. Paris.
fol. 209. n. 50.
5. Reg. Johannis.

Anno 1204 In Crastino Circumcisionis Convenerunt ad Colloquium apud Oxoniam Rex et Magnates Angliæ, ubi concessa sunt Regi Auxilia Militaria, de quolibet Scuto Scilicet duo Marce et Dimid. nec etiam Episcopi et Abbates siue Ecclesiastica persona sine promissione recesserunt.

Ibid. fol. 239.
n. 40. 14. Reg.
Johannis.

Anno 1213 Interfuerunt Concilio apud Sanctum Albanum Gislebertus filius Petri, et Episcopus Wintoniensis cum Archiepiscopo et Episcopis et Magnatibus Regni. Geoffry fitz-Peter, and the Bishop of Winchester were the Kings Commissioners.

Ibid. fol. 247.
n. 20. Anno
1213.

Convenerunt Rex cum Legato, Archiepiscopo cum Episcopis, Magnatibus, ac omnibus viris Religiosis ad interdicti negotium Contingentibus apud Radingum octavo Idus Decembris, &c.

Anno

	Anno 1215. Convenerunt apud Runge Mede decimo quinto die Junii Rex & Magnates; At partibus seorum confidentibus ceperunt de pace diutius & Libertatibus tractare sepe dictis.	Ibid. fol. 255. n. 40. 16. Joannis.
A	Anno 1223. Rex Henricus ad Natale tenuit curiam suam apud Oxoniā & postmodum in Octavis Epiphaniæ apud Londonias veniens cum Baronibus ad Colloquium, requisitus est ab Archiepiscopo & Magnatibus alio ut Libertates & Liberas consuetudines pro quibus Guerra mota fuit contra Patrem, confirmaret.	Ibid. fol. 316. n. 50. 7. Hen. 3.
B	Anno 1224. Convenerunt ad Colloquium in Octavis Sanctæ Trinitatis apud Northampton Rex cum Archiepiscopis Episcopis Comitibus Baronibus & aliis Multis de regni Negotiis Tractaturi.	Ibid. fol. 320. n. 30. 8. Hen. 3.
C	Anno 1225. Rex Henricus ad Natale tenuit Curiam suam apud Westmonasterium presentibus Clero & Populo cum Magnatibus Regionis. In hac Solennitate completa concessa est Regi xv pars rerum Mobilium.	Ibid. fol. 323. n. 10. 9. Hen. 3. when Magna Charta was granted.
C	Eodem Anno Mense Martii Convenerunt apud Westmonasterium ad Colloquium Rex Anglorum cum Magnatibus suis.	Ibid. fol. 324. n. 20.
C	Anno 1230. 7. Calend. Februarii Convenerunt ad Colloquium apud Westmonasterium Rex cum Prælati & aliis Magnatibus Regni; Ubi exegit Idem Rex Scutagium, de quolibet Scuto tres Marcas ab omnibus qui Baronias Tenebant tam Laicis quam Prælati.	Ibid. fol. 367. n. 50. 14. Hen. 3.
D	Anno 1232. Nonas Martii Convenerunt ad Colloquium apud Westmonasterium ad vocationem Regis Magnates Angliæ tam Laici, quam Prælati. Ubi Rex Auxilium per totam Angliam sibi dari postulavit.	Ibid. fol. 372. n. 40. 16. Hen. 3.
D	Eodem Anno apud Lambetham ad Colloquium in exaltatione Sanctæ Crucis Coram Rege convenerunt Episcopi & alii Ecclesiastici Prælati cum Proceribus Regni. Ubi concessa est Regi 40 pars Mobilium.	Ibid. fol. 377. n. 50.
E	Anno 1234. 5. Idus Aprilis Convenerunt ad Colloquium apud Westmonasterium Rex cum Comitibus & Baronibus: Et Archiepiscopus cum suis Suffraganeis.	Ibid. fol. 397. n. 10. 18. Hen. 3.
E	Anno 1236. 4. Calend. Maii congregati sunt Magnates Angliæ Londini ad Colloquium de negotiis Regni tractaturi.	Ibid. fol. 429. n. 30. 20. Hen. 3.
F	Anno 1237. Tenuit Rex Curiam suam ad Natale apud Wintoniam, missi autem continuo per omnes fines Angliæ Scripta Regalia, precipiens omnibus ad regnum Angliæ Spectantibus, videlicet Archiepiscopis Episcopis Abbatibus Prioribus installatis Comitibus & Baronibus, ut omnes sine omissione in octavis Epiphaniæ Londoniis convenirent, Regni negotia tractaturi totum Regnum contingencia. Venit igitur die Sancti Hilarii Londoniæ infinita Nobilium Multitudo, viz. Regni totalis Universitas.	Ibid. fol. 435. n. 10. 21. Hen. 3.
	Eodem Anno Scripsit Rex omnibus Magnatibus, ut Coram eo, & Domino Legato in festo Exaltationis Sanctæ Crucis apud Eboracum Convenirent de arduis Negotiis regnum Contingentibus tractaturi.	Ibid. fol. 446. n. 30.
	Anno	

Ibid. fol. 579.
n. 40.
Note who
were the
Magnates
Anglie.
26. Hen. 3.

Anno 1242. Scripsit Rex Anglorum omnibus suis Anglie Magnatibus, Archiepiscopis, Abbatibus, Prioribus, Comitibus & Baronibus districte precipiens ut omnes generaliter Londinum die Martis proxime ante Purificationem B. Virginis Convenirent de arduis negotiis regni dilationem non capientibus, cum summa deliberatione tractaturi.

Ibid. fol. 693.
n. 20.
Note the
Magnates
28. Hen. 3.

Anno 1244. Convenerant regia Submonitione convocati Londinum Magnates totius regni, Archiepiscopi, Episcopi, Abbates, Priores Comites & Barones.

Ibid. fol. 696.
n. 30.
Note the
Magnates
30. Hen. 3.

Anno 1246. Rex Missis Literis suis totius regni Magnates convocavit ut Londini die qua cantatur Latere Jerusalem videlicet mediæ quadragesimæ de statu regni generaliter convenirent tractaturi.

Ibid. fol. 696.
n. 10. & 698.
n. 40.
Compare this
with Magna-
tes above and
note who they
were.

Medio Quadragesimæ, videlicet die qua Cantatur Latere Jerusalem Edicto Regio convocata, convenit ad Parliamentum Generalissimum totius regni Anglicani Totalis Nobilitas Londini, videlicet Prelatorum, tam Abbatum, & Priorum quam Episcoporum, Comitum quoque & Baronum.

Ibid. fol. 709.
n. 30. Magna-
tes.

Eodem Anno die Translationis B. Thomæ Martyris habitum est Magnum Concilium inter Regem & Magnates Regni apud Wintoniam super Multiplici Regni totius, & Maxime Ecclesiæ desolatione.

Ibid. fol. 719.
n. 30. 31.
Hen. 3. & 720.
n. 50.

Anno 1247. Fecit Dominus Rex Magnates suos nec non et Angliæ Archidiaconos per Scripta sua Regia Londinum convocari.

Ibid. fol. 730.
n. 10.

Eodem Anno Dominus Rex comperiens regnum suum enormiter periclitari, jussit omnem totius regni Nobilitatem convocari, ut de statu ipsius tam manifeste periclitantis, Oxoniis die qua Cantatur Quasi modo geniti, diligenter contrectarent.

Ibid. fol. 743.
n. 50.
32. Hen. 3.

Anno 1248. In Octavis Purificationis Edicto Regio convocata totius Regni Angliæ Nobilitas convenit Londini, ut de regni negotiis minis perturbati & depauperati & temporibus nostris enormiter Mutillati, diligenter & efficaciter simul cum Domino Rege contrectaret.

Ibid. fol. 865.
n. 40.
37. Hen. 3.

Anno 1253. In Quindena Paschæ Mense Aprili, Tota Edicto Regio convocata Angliæ Nobilitas convenit Londini de arduis Regni Negotiis simul cum Rege tractatura.

Ibid. fol. 887.
n. 10.
38. Hen. 3.

Anno 1254. Congregati sunt Angliæ Magnates Londini; quibus significavit Rex quod pecunia indigebat, & viribus amplioribus ad repellendum violentiam magni Hostis Supervenientis.

Ibid. fol. 904.
n. 40.
39. Hen. 3.

Anno 1255. In Quindena Paschæ quæ vulgariter Hokeday appellatur convenerunt Londini omnes Nobiles Angliæ tam viri Ecclesiastici quam Seculares, Ita quod nunquam tam Populosa Multitudo ibi antea visa fuit congregata.

Ibid. fol. 913.
n. 40.

Anno sub eodem ad festum Sancti Edwardi fuerunt apud Westmonasterium omnes fere Angliæ Magnates.

Ibid. fol. 1006.
n. 10.
54. Hen. 3.

Anno 1270. Rex Angliæ in Octavis S. Martini Parliamentum Tenuit apud Harlebertwe in quo de assensu Comitum & Baronum edita sunt statuta quæ de Harlebertwe vocantur.

The

THE GLOSSARY.

*Allodium, Allodiarum, Alodium, Alaudum, Alodiarum,
Alode, Alodarium, Aloarium.*

ALL these words, though variously written, are of the same signification: There are many *Etymologies* of them given by *Budaus, Beatus Rhenanus, Abentinus, Cujacius*, and others, which I pass by as meer Conjectures. *Wendelin* in his *Salic Glossary* [1] of *Arutic* words, derives them from the Saxon *Ael*, *omnis*, *Totus*, *integer*, *All*; which is always a note of Perfection in Compounds: And *Lod*, as he renders it, *onus*, from *Ladan tollere, auferre*. This I confess sounds well; but there can be no congruity of sense between the two words. Also he derives it from the Saxon *Aeld*, *senex*, *old*, *ancient*, *aged*; because *Alodium* was an old Patrimonial Inheritance that descended from *Ancestors* in Blood; and it was sometime called *Patrimonium Avaticum*, when it came from the Grandfather, *Paternicum* when from the Father, *Maternicum* when from the Mother. These in Saxon were called *Alders*, in Latin *Majores*, in English *Antecessors*, or *Ancestors* in Blood. *Nullus Babarus alodem aut vitam sine Capitali Crimine perdat*, No Babarian shall forfeit his *Alode*, or Life without a Capital Crime. That is, If either he conspires the Death of the Duke, or invites his Enemies into the Country, or contrives to deliver a City to Strangers, and be convicted. *Tunc in Ducis sit potestate vita ipsius, & omnes res ejus & Patrimonium*, Then let his Life be forfeit to the Duke, and all his Goods and Patrimony. *Leg. Boioar. Tit. 2. Cap. 1. Sect. 3.* in another place, where there was Contention about the Bounds of Lands, and they could not be set forth, the Possessor was to affirm and make it good, *Hucusque Antecessores mei Tennerunt, & in Alodem mihi Reliquerunt, &c.* Hitherto my Ancestors held so much Land, and left it to me in *Alode*, *ibidem, Tit. 11. Cap. 5.* Mr. [2] Somner says *Alodium, Alod*, is compounded of the Saxon *Ael* or *all*, and the Teutonic *hepd* or *heit*, which we call *hode*, or *hood*, that is, *alhode*, which expresseth the Quantity, Nature, Kind and Condition of a Thing, as *Knight-hode*, *Man-hode*, *Child-hood*, *Father-hode*, *Priest-hode*, *Neighbour-hood*, *Liberty-hode*, and many more, which do as it were denote the Nature, Totality, and Integrity of a Thing; and this *Etymology* agrees well with the signification of the word; for by *Alodium* is meant Propriety, and Lands holden *Optimo Jure*, most freely; without any Works, Services, or usual Prestations, which though they are not properly under the Dominion of the Prince, yet they are under his [3] Protection and Guard.

[1] In the word *Alode*. The Derivation of *Allodium*, &c.

[2] Glossar. in the word *Feodum*, and in his *Gavelkind*, p. 106, 107, &c.

Mr. Somners Etymologie in the word *Allodium*.

[3] *Wendolin* ut supra.

A

Alodium

[4] *Du Fresn*
Gloss. in the
word *Alodium*

Alodium is the same with [4] *Pradium*, *Possessio*, *Hæreditas*, & *Proprietas*, which any Man may give or sell. In a great scarcity *Charles the Great* set the price of Grain, in which Law, *Alode*, and *Proprietas* seem to be the same, and are both opposed to *Beneficium* or *Feodum*; *Qui Beneficia Regalia, tam de Rebus Ecclesiasticis, tam de Reliquis habent, unusquisque suam familiam suo Beneficio, Nutricare faciat; & de sua proprietate propriam familiam nutriet, & si Deo dante, super se, & super familia sua, aut in Beneficio aut in Alode annonam habuerit, & venum dare voluerit, non carius vendat, &c. Capitul. Car. & Lud. Lib. 1. C. 132. Audivimus Quod aliqui reddant Beneficium Nostrum, ad alios homines in proprietatem, & in ipso placito dato pretio comparant, ipsas res iterum sibi in Alodem. Quod omnino Cavendum est. Quia qui hoc faciunt, non bene Custodiunt fidem, Quam nobis promissam habent; & ne forte in aliqua Infidelitate inveniantur, Qui hoc faciunt, Deinceps Caveant se omnino à Talibus, ne à propriis honoribus, à proprio solo, à Dei Gratia, & nostra Extorres fiant. Ibidem, Lib. 3. C. 20. Hæreditatem Defuncti filius non filia suscipiat, &c. Let the Son of the Defunct have the Inheritance: If the Defunct hath no Son, ad Filium Pecunia & Mancipia, Terra vero ad proximum Paternæ Generationis Consanguineum pertineat; Let the Daughter have the Stock and the Servants, and he that is next a Kin to the Father the Land. Leg. Anglorum, Tit. 6. De Alodibus si quis absque liberis Defunctus fuerit, si Pater materque superstites fuerint, in hæreditatem succedant: Si Pater materque non fuerint, frater & soror succedant, si autem eos non habuerit, tunc frater & soror matris, patrisque succedant, & Deinceps usque ad quintum Geniculum, qui proximus fuerit in hæreditatem succedat. Sed Dum Virilis Sexus Extiterit, femina in hæreditatem abbatricam non succedat, Leg. Ripuar. Tit. 56. De Alodibus.*

If any Man dies without Children, let his *Father* and *Mother*, if alive, succeed in the *Inheritance*: If he hath neither *Father* nor *Mother*, let his *Brother* and *Sister* succeed: If he hath neither, then the *Brother* and *Sister* of his *Father* and *Mother* may succeed; and so on to the *Fifth Generation*, let him that is next in Blood succeed. But while there is any of the *Masculine sex* in being, a *Woman* may not succeed in the *Grandfathers*, or *Ancient Inheritance*. And as it was Land that *Descended*, or Land of *Inheritance*, it was opposed to Land that was *Purchased*. *Wendel. & Du Fresn, in locis citatis.*

A Woman not
to succeed in
the Grandfa-
thers Inheri-
tance.

[5] *Du Fresn*
ut supra.
Lands held in
Allodio were
much like our
Freehold.

It was much like that we call *Freehold*, [5] and was Land free from all *Præstation* or *Payments*, and all Service both Real and Personal, yet the Possessor acknowledged a *Lord* of whom he held it, as in *Honourable Fee*, *Dominum agnoscit, à quo Alodium tenebat in Feodum honoratum.*

[6] *Monast.*
Anglican. Vol.
2. f. 959. n. 50.
[7] *Ibidem,*
f. 960. n. 40.
[8] *Ibidem,*
n. 50.
Lands given in
Allodio to any
religious use,
were the same
with *Elemosy-
na.*

William when only *Duke of Normandy*, *A. D. 1042.* on the 12th of *April*, gave Lands in *Allodium* to the *Monastery of Cerasy*, Founded to the Honour of *St. Vigor*. *Ego Willielmus Normannorum Dux, [6] Dedi Terram quam Vigotus barbatus tenebat in Alodio liberam & solutam ab omnibus Consuetudinibus mihi pertinentibus.* To the same *Monastery*, *Vigot of St. Denis* [7] gave Lands in *Allodio*, and *Hubert Fitz-Perion* [8] gave Lands in *Allodio*. So that here Lands given in *Allodio*, and *Elemosyna*, free from *Secular services* and *Præstations*, were reputed the same. So *William Rufus* in a *Penitential Humour*, and great fit of *Sickness*, on the sixth of *March*, *A. D.*

A

B

C

D

E

F

A. D. 1093. gave to Anselm Archbishop of Canterbury, that City and the Abby of St. Albans in Alodium, [9] *præcepit itaque Rex ut sine Dilatione & Diminutione, investiretur (Anselmus) de omnibus ad Archiepiscopatum pertinentibus intus & extra. Atque ut Civitas Cantuariæ, quam Lanfrancus suo Tempore in Beneficio à Rege tenebat, & Abbathia Sancti Albani, quam non solum Lanfrancus, sed & Antecessores ejus habuisse noscuntur, in Alodium Ecclesiæ Christi Cantuariensis, pro Remedio Animæ suæ, perpetuo Jure Transirent.* Here Alodium was Land given in pure *Alms* in perpetual Possession, which was a kind of Inheritance in Right of the Church, and opposed to *Benefice*, or *Fee*, as it had Secular Service belonging to it: for that was given most frequently for Military Service, or in *Serjanty* for other Services and Performances, and was not an Inheritance, but for Life, or a Term only at the first Institution, and many ways forfeitable to the Lord or Patron, in whom the *Fee* remained, the *Fendatary* or *Vassal* having only the Profit, or *Dominium Utile* of it.

[9] Eadmer. Hist. Nov. c. 18. n. 40. 50.

Alodium opposed to Beneficium.

Some of this Land we find in *Domesday-Book*, but not free from all Payments and *Prestations*, for it always paid the Land-Tax called *Hidage*. [1] *Suarrin tenet Dredintone de Rege, ipse & alter liber homo tenuerunt in Alodio de Rege Edwardo, tunc Geldabat pro una Hida & Dimid' tertia parte unius Virgate, Minus.* Suarrin holds Dredintone of the King, he and another Freeman held it in Alodio of King Edward, then it was Taxed at one Hide and half, and the third part of one Virgate more or less.

Alodium not free from all Payments.

[1] Hamestre f. 51. T. 1. Terre Tunc Regis, f. 52. d. Col. 2.

Edwardus [2] *tenet de Rege unam Hidam in Colerige, ipse tenuit in Alodium de Rege Edwardo, & pro una hida se Defendebat, &c.* Edward holds of the King one Hide in Colerige, he held it in Alodium of King Edward, and it was Taxed for one Hide, &c. Geldare, and se Defendere, signifie the same thing in *Domesday*; and wherever we find any Alodium there, it is thus Entred.

[2] Ibidem, fol. 63. b. Col. 1. B. Roc-fire Tit. Terra Odonis & Alodiorum Tainorum

According to the [3] particular, *Municipal Customaries* of France, there was Alodium Nobile, and Alodium Villanum. Noble Alod, had Jurisdiction, and superior Justice belonging to it, and was not obnoxious to Homage or Feudal Service, nor Fines for License to Transfer or Sell it. Villan Alod was like the other in All Things, save that it had no Jurisdiction. In French the first is called Aleu Noble, and the later Aleu Roturier; and were exempt from all Jurisdiction and Superiority Feodal, but yet were subject to the Jurisdiction and Sovereignty of the King, or other Lord that had Jurisdiction over the place where it was.

[3] Beraut's Cusume de Norm. Art. 102.

Alodium Nobile & Villanum. The former not obnoxious to Feudal Service.

Alodiarii, Alodarii, Alodarii, and Aloarii, were Possessors of Lands of this nature. There were also Bona Alodialia, possessed after the same manner: but of the word Alodialis, as it is referred to a person, there may be some doubt, though Du Fresn saith it is the same with Alodarius, &c.

Aldii, Aldiones, Aldia, Aldiana.

A Compensation paid to the King of Lombardy for killing any Servant or Vassal.

*Vide Sect. 2. hujus Tituli: & in ipso furto tentus fuerit, id est, Fegangi. 'Tis a Lombard word.

If a Servant steals, and his Patron neglect to make restitution, he becomes that Mans Servant from whom he stole.

He that bargains with another Mans Servant, is bound to restore without price.

[4] Glossar. in verbo Aldius.

[5] In the word Alode.

THe Persons and Goods of these Persons, were in the Power of their *Lords* and *Patrons*; yet if they Killed them, they lost the Possession of their *Children* and *Goods*, and paid a *Compensation* to the King for Killing them, which was the value of them when Living. *Si vero Aldius fuerit aut servus*, (that was killed) *perdat (Dominus) filios suos & res ipsius, & Componat in palatio Regis Adalgild, LL. Longobard. Lib. 1. Tit. 9. Sect. 26.*

*Si cujusunque servus aut Aldius, Ancilla vel Aldia in furto Comprehensi fuerint, & Dominus eorum neglexit eos liberare, & usque ad dies triginta eos Dimiserit, sint * Fegangi: & habeat eos in Transactum, cui furtum fecerint, & componat postea ipsum furtum sicut lex est & Edictum continet. Ibidem, Tit. 25. §. 59.*

If any Mans Servant, or *Aldius*, or Woman-Servant, or *Aldia*, were taken for Theft, and their *Lord* or *Patron* neglected to free them in thirty days, they were then to be reputed manifest Thieves, as if they had been taken in the manner or very act; and he from whom they had stolen, might have them, as if he had transacted or bargained for them, and he might compound with the Prince for the Transgression, according to the Law and Edict: that is the *Edict* of *Rotbaris*, §. 6. and this very Title of the first Book was that Edict, *Sicut in hoc Edicto Legitur, Cap. or §. 1. Rex Rotbaris.*

Si quis cum servo, aut Aldione, vel cum pertinente alieno, de re qualicunque convenerit; sine notitia Domini sui, & probatum fuerit, Quod res Domini sui naufragasset; Tunc reddat ipsam Rem, qui eam suscepit, absque pretio Domino ejus: & postea Dominus de servo vel Aldione suo faciat quod illi placuerit. Ibidem, Lib. 2. Tit. 33. §. 5. If any Man bargains for any thing, with another Mans Servant, *Aldio*, or one that so belongs to him as he cannot go from him, without the knowledge of his Master, and it be proved he imbezled his Patrons Goods, he that received them ought to return them without price; and the Master afterward may do with his Servant or *Aldio* what he pleaseth.

Aldiones vel Aldia ea lege vivant in Italia in servitute Dominorum suorum qua Fiscarius vel Liti vivunt in Francia, LL. Longobard. Lib. 3. Tit. 20.

Sir Henry [4] Spelman from Amerpachius his Notes, upon the Constitutions of Charles the Great, says, That *Aldii*, *Liddi*, *Lidi*, or *Liti* were German words, and differed not, unless one was then used in Italy, and the other in France and Germany, especially amongst those Germans which were called *Franks*, and affirms that both words do signifie a Servant.

Wendelin in his *Salic* [5] Glossary as he derives the word *Alode* from *Aelde*, because it was Land frequently descended from Ancestors in Blood, so he derives the words *Aldius*, &c. from the same, and says

says they were *Gleba ascriptitii*, Persons bound to live upon the *Alode*, or *Propriety*, and were part of the *Alode* left by Parents to their Children, as Servants, &c. upon other Tenures.

Alodi bound to live upon the *Alode*, or *Propriety*.

In the *Donation* of *William Duke of Normandy* to the [6] *Monastery* of *St. Vigor* before mentioned, he not only gives the Lands to be holden in *Alodio*, or *Propriety*, but gave also *Alodial* Persons. *Dedi etiam Ecclesie Sancti Vigoris Radulphibillam, & unum Alodialem in ipsa Villa, & in Solebilla, unum Alodialem, dedi quoque unum Alodialem in Amundi-billa, quietum ab omni consuetudine.* This seems to give credit to *Wendellius* conjecture, also to shew that *Alodiarum*, and *Alodiales*, were not the same.

[6] *Monast.*
Vol. 2. f. 959.
n. 40. 50.

Alodiales given by the Conqueror to the Monastery of *St. Vigor*.

Yet perhaps *Alodiales* might be the same, or some such Persons, as the *Franti Viri & Villani*, Freemen and Villans, which *Alfred the Giant* gave to the same Monastery. The Chart is short, and contains much variety, and therefore shall cite the whole. *Ego [7] Mure-*

[7] *Ibid.* f. 960
Col. 1. n. 60.

*dux Sigas, in presentia Domini mei Willielmi Comitis, ac omnium * procerum ejus, pro anima mea, parentumque meorum, Dedi Deo & Sancto Vigori & Monachis ejus, totam terram meam de lepozibus, fav-ntibus uxore mea, & filiis, & filiabus, necnon & omnibus propin-*

* See *Episcopi*, and *Barones* afterward.

* See *Dominium* afterward.

*quis meis; in * Jus propriæ hereditatis, cum omnibus quæ in Domino illic Tenebam. Hoc est terram cultam & incultam, & prata, Totamque Aquam cum dimidio Molendino: Silvam etiam de Geoma, set & terram quam Tenebam in Valle Cleopellis; & omnes Francos viros atque Villanos. Addidi etiam totam terram quam Walterus presbyter de me tenebat, in Villa quæ dicitur Caissei cum Tota Ecclesia & Decima; Et in Surrebamno tertiam partem Ecclesie cum Decima illi parti*

Freemen and Villans given by Deed amongst the Normans.

*pertinente, & in eadem Villâ viginti acras terre: Et in Puntevilla totam terram, quam prædictus Presbyter tenebat, & prata & sextam partem unius Molendini. Hæc omnia nobis pertinentia ego Walterus Presbyter, & filius meus Agulfus, Deo & Sancto Vigori pro animabus nostris, post mortem nostram in * Dominio habere perpetualiter Concedimus hanc Cartulam. Ego Willermus Normannorum Dux, me auctoritate Coram * Episcopis & * Baronibus meis confirmo, atque ab omnibus Consuetudinibus liberam esse Concedo; & Quicumque hæc violare præsumperit, Anathema sit. S. Sigillum vel signum, Willermi Comitis †, S. Batildis Comitissæ †, S. Odonis Episcopi †, S. Aluredi Gigantis †, S. Rogeri de Monte-Gomerii †, S. Walteri Presbyteri †, S. Agulfi filii ejus †.*

* *Dominium*, and *Jus propriæ hereditatis* are the same.

* This was a Norman great Council or Parliament.

F

Angli,

Angli, Anglici, Anglige.

These words are frequently met with in *Ancient Historians*, as expressing Men of great Action and Atchievement, and are commonly thought to have been *Saxon-English*, and 'tis generally believed without the least Scruple, that they were such; but who-ever seriously attends to the things done, and will consider the Instances following, may perhaps change his thoughts.

Angli signifies more than English-Saxons.

William the Conqueror styled Rex Anglorum.

A great design to Dethrone William Rufus, fol. 642. n. 32.

The very Titles of the *Conqueror*, and his *Successors*, plainly shew, that the *Normans* as well as *Saxons*, were called *English*. *Guilielmus Rex Anglorum*, and so his Sons *William*, *Henry*, and King *Stephen*, &c. nothing more frequent. In the *Conquerors* General Commission and Precept for the Restitution of Lands to *Bishopricks*, and *Abbies*, which had been taken away by his *Normans*. *Willielmus Dei Gratia Rex Anglorum*, *Lanfranco Archiepiscopo Cantuar. Et Goisfrido Episcopo Constantiarum*, & *R. Comiti de Du*, & *Richardo filio Comitis Gilberti*, & *Hugoni de Monteforti*, *Snisque aliis proceribus Regni Anglie Salutem*, &c. Can any man think, That *William* Esteemed himself King only of the *Saxon-English*, and not of his *Normans*, that came with, and after him? If the *Normans* were his Subjects as well, as the *Saxons* or *English*, then certainly they were Comprehended in the Word, *Anglorum*, and were Reputed *English Normans*, nay *English* without Addition, by King *William*, and the *Transmarine Normans*, and so understood, by others at that time; and the Direction of the Writ, to *Arch-Bishop Lanfrant*, the *Earl of Du*, *Richard* Son of *Earl Gilbert*, and *Hugh Montfort*, and his other great Men of the Kingdom of *England*, makes it more clear, for these were all *Normans*, and yet in the Commission, called his great Men of the Kingdom of *England*, or *English*.

In the year 1088, which was the first of *William Rufus*, there was a Design laid, to Dethrone him, and make his Elder Brother *Robert King*, *Hoc Anno*, says *Florence of Worcester*, *inter Primates Angliæ, magna orta est Discordia, pars etenim Nobiliorum Normannorum favebant Regi Guilielmo, sed Minima: pars vero altera fav. bat Roberto Comiti Normannorum, & Maxima*: and then Reckons up the chief Favorers of *Duke Robert*, which were his two Uncles, *Edo Bishop of Baieus*, and *Earl of Kent*, who was Prisoner in *Normandy* until his half Brother the *Conqueror* Died, and *Robert Earl of Hereford* in *Normandy*, and *Cornwal* in *England*, *Goisfrid Bishop of Constance*, *Robert de Holtzato* or *Hombay*, *Earl of Northumberland*, *Roger Earl of Shrewsbury*, and *William Bishop of Durham*, *Eustachius* the younger *Earl of Boloigne*, and the Mighty *Norman Robert de Belcino*. *Simeon of Durham* hath the same words, and adds to the rest, *Roger Bigod Earl of Norfolk* and *Suffolk*. Col. 214. N. 60. *Malmsbury* likewise adds *Hugh de Grentemeisnil Earl*, or *Vicount of Leicester*, fol. 68. a. lin. 5. King *William* having notice of this Revolt and Contrivance, *Convocare fecit Anglos, & ostendit eis Traditionem Normannorum*, &

- & rogavit ut sibi auxilio essent, eo tenere, ut si in hac necessitate sibi fideles existerent, meliorem legem quam velint eligere, eis concederet, omnem injustum scottum interdixit, & concessit omnibus silvas suas & venationes: Angli fideliter ei juvabant. **Simeon Dunelm.** Col. 214. n. 60. The King (meaning Rufus) called together the English, asked them to help him, and that in his necessity they would stand to him, upon which condition they should have what Law they would chuse, and he also would forbid all unjust Taxes, and grant them their Woods and Forrests, and Hunting. The English faithfully helped him. **Florence of Worcester** says, The King hearing of these things, *Congregato quantum potuit ad presens, Normannorum, sed tamen maxime Anglozum, Equestri ac pedestri exercitu, tendere disposuit Robertum* gathered together as many as he could of the Normans, but most of the English, and with an Army of Horse and Foot marched toward Rochester.
- B** **Malmsbury** thus, *Rex videns Normannos pene omnes in una Rabie Conspiratos, Anglos probos, & fortes viros, qui adhuc Residui erant, invitatoriis scriptis arcessit; Quibus super injuriis suis, Querimoniam faciens, bonasque Leges, & Tributorum levamen, liberaque venationes pollicens, fidelitati sue obligavit, f. 68. a. lin. 8. and n. 10.* And then by fair words and promises drew off from his Enemies **Roger Earl of Shrewsbury**, by which he broke the Party. **Odericus Vitalis** thus, *King William* so soon as he saw the contrivance against him, *Lanfrancum Archiepiscopum cum suffraganeis presulibus, & Comitibus, Anglosque naturales convocavit, & conatus Adversariorum, & velle suum, expugnandi eos indicavit, f. 666. D.* He called together **Lanfranc** the Archbishop, his Suffragan Bishops, the Earls, and Natural English, and shewed them the Designs of his Adversaries, and his intention to oppose them. And in the next Page, *Omnes Episcopi Angliæ, cum Angliis sine Dolo Regem juvabant, Hugo Comes Castellensis, Guillelmus de Warenna Robertus Paimonis filius, alique Legitimi Maturique Barones, Regi fideliter adhærebant, eique Armis & Consilio contra publicos hostes Commode favebant, t. 667. C.* All the Bishops of England with the English, without treachery assisted the King. **Hugh Earl of Chester**, **William Earl of Waren** in Normandy, and by Rufus made Earl of **Surry**, **Robert Fitz-Paimon**, Baron of **Astremville** in Normandy, and made Earl of **Glocester** by the same King; and other true and ancient Barons faithfully adhered to the King, and favoured him with their Arms and Counsel against the Publick Enemy. To these he adds **Robert de Rodelent** General of the Army that besieged **Rochester-Castle**, the Defendents whereof when they sent Conditions to the King, upon which they would yield, received answer, That he would Hang them All. Upon which severe Resolution, the greatest of his own Friends and Assistants applied themselves to him for favour towards them, using these Arguments, *Nos quoque qui tecum maximis in periculis sicut cum tuo Patre, perstitimus, nunc tibi humiliter astamus, & pro compatriotis nostris obnixè supplicamus, &c.* We also that have been in the greatest Dangers with your Self and Father, We humbly request your Favour for our Countrymen, &c. Ibidem, f. 668. A. And by their intreaty he was overcome, granting their Lives, and Liberty to march out of the Castle with their Horse and Arms.
- F**

According

The Primates
Anglie so cal-
led, were
Normans.

Most of the
Saxon-English
held what they
had of the
Normans.

All the Bi-
shops in Eng-
land were
Normans, but
Worcester.

According to the sound of the word *Angli*, and a superficial Reading of the *Authors* here cited, most Men would think they were only Saxon-English intended, and expressed by that word: but upon due Observation of the *Historians*, and Persons which were by them called *Angli*, it cannot be so: for the *Primates Angliæ* on both sides, the chief Men of England who favoured both *Duke* and *King*, were *Nobiliores Normanni*, the more Noble *Normans*; and as it is clear by the particular enumeration of the Persons they were so, on the *Dukes* side, so it is evident they were *Normans* which assisted *King William*, and kept the Crown upon his Head: He called together the English, says *Malmsbury*, and *Simeon of Durham*, and promised them the best Laws they should chuse, or good Laws, ease in their Taxations, the injoyment of their *Woods* or *Forrests*, and the privilege of *Hunting*. Certainly these were great Men, that he called together, *English Earls*, and *Barons*, and not Men of the middle or ordinary *Rank*; for they could never have met in such Numbers, as was requisite for them to do, to protect and defend *King William*, had they not been headed by such, if they had either Arms, or Power, or Estates that depended not upon the *Normans*: And if any Man can shew me an English-Saxon that was either *Earl* or *Baron*, or that had any Power, or share in the Government, or many that had considerable Estates, that did not hold them of the *Normans*, or that at this time had great Woods, Forrests, and privilege of *Hunting* in them, I will confess I am mistaken. 'Tis true, *Malmsbury* says *Rufus* called together *Anglos probos, & fortes viros, qui adhuc Residui erant, &c.* These here meant were the *legitimi, & maturi Barones*, such as *Ordericus* tells us of, that came in with his Father, and ran many Hazards with him, and first settled themselves here after the Conquest; such as petitioned *King William* for favour toward their Countrymen shut up in *Rochester Castle*; as many of these (that were alive) as he could, he fixed to his interest by the promises before-mentioned: Yet some there were against him, whom he spared for their Merits toward his Father, and the Reverence he had to their Age, knowing they could not live long. *Antiquis Baronibus, Quos ab ipso aliquantulum desciverat nequitia, versute pepercit, pro amore patris sui, cui diu fideliter inhaeserant, & pro senectutis Reverentia: Sciens profecto, quod non eos Diu vigere sinerent Morbi, & Mors propria.* Order. f. 669. B. Some of those Ancient Barons that adhered to *King William* have been named by this *Historian*, to wit, *Hugh Earl of Chester*, *William de Warrenna*, *Robert Fitz-Haimon*, *Robert de Rodent*, all *Normans*, which came in with the Conqueror, besides many others in general: And all the *Bishops* of England, who at this time were *Normans* and *Forreigners*, not one Saxon amongst them, but old *Wulfstan Bishop of Worcester*. See *Godw. de presul. Angl.* 'Tis not probable these would raise an Army of Saxons, to beat them out of England again.

4° *Gulicmi Rufi: Anselmus invitatus ab Hugone Cestrensi Comite, Multisque alijs. Anglorum, Regni principibus, qui eum animarum suarum, medicum elegerant, &c.* *Eadmer in Vit. Anselm. Lib. 2. in princip.* Here *Hugh Earl of Chester*, and the other *Princes* or chief Men of the English, were all *Normans*, though called and reputed English.

Paris

A Paris says that Hen. I. convened the *Clergy*, and all the *People* or *Laity* to *London*, and propounded to them that they would *receive* him as their *King*. The *Clergy*, and all the *Magnates* or great Men answered, If he would grant them, &c. they would unanimously make him *King*. He granted what they demanded, and forthwith *Thomas Archbishop* of *Dork*, and *Haurice Bishop* of *London*, Crowned him, f. 55. n. 20 30. Both these *Bishops* that Crowned him were *Normans*, as also were at that time all the other *Bishops* of *England*. See *Godw. de Præsul.* and likewise all the *Earls*, *Barons*, and great Men were *Normans*; and yet in the next Page Paris says, King Hen. was Crowned *de Communi Consilio Gentis Anglorum*, f. 56. n. 50.

All the great Men of England were Normans.

B This King Hen. fearing the Title of his Brother Robert, and the Revolt of the *English-Normans*, calling the *Magnates* or great Men of the Kingdom together, in a flattering Speech bespoke their assistance: *Magnatibus Regni Londonium Edicto Regio Convocatis, Rex talibus allocutis, super mel & favum, oleumque Mellitis & Mollitis blandiens Dixit, Amici & fideles mei, indigenæ, ac naturales, &c.* Paris, fol. 62. lin. 8. These great Men he spoke to, (or at least the *Historian* for him) were all *Normans*, and yet because most of them might be born in *England*, in that respect he calls them *home-bred*, or born in the same Country with* himself, and natural *English*. And proceeding in his *Harangue*, he tells them how he would Govern, and what great things he would confirm unto them, that they might thereby be engaged to stand faithfully by him, and stoutly repel the force and injuries of his Brother; *Si enim fertitudine Anglozum Roborer, inanes Normannozum minas nequaquam Censeo formidandas.* He addresseth himself still to the same great Men which were really *Normans*, and nevertheless calls them *English*. Ibidem, n. 20.

* Hen. I. was born in England A.D. 1068 the second year after the Conquest.

King Hen. calls his Norman Subjects English.

D Robertus interea Normanniam veniens Comitatum suum, obistente nullo, recepit, quo audito omnes penè hujus Terræ (meaning *Englano*) optimates, Fidei Regi Jurata Transfugæ fuere. Soli Robertus filius Patrimonis, & Ricardus de Redberg, & Rogerus Bigot, & Robertus Comes de Bellent, cum fratre Henrico (Earl of Warwick) justas partes fovebant, (meaning King Hen. I. his Cause) *Malmsh.* f. 88. a. n. 40. These five were all *Normans*, yet by *Malmesbury* called *Optimates hujus Terræ*, the chief Men of this Land, (meaning *England*.)

E A. D. 1072. in the sixth of William I. in a great Council at Windsor, in the Feast of Pentecost, Ego Goisfridus Constantiensis Episcopus, & unus de primatibus Anglozum consensit, as a witness to the determination of the Controversie between Archbishop Lanfranc, and Thomas Archbishop of Dork, *Malmsh.* f. 65. b. n. 30. & 66. a. n. 20. This Goisfrid was a *Norman*, and Bishop of Constance in *Normandy*, and yet styles himself one of the *Prime*, or Chief of the *English*. So in the ninth year of the same King William, 1075. in an Ecclesiastick Council or Synod at London: Ego Gaufridus Constantiensis Episcopus, et unus de Angliæ terræ primatibus subscripsi, *Spelm. Concil. Tome 2. fol. 8.*

A Norman Bishop styles himself *Primus Anglorum*.

F Henricus Rex Anglozum Samsoni Episcopo, et Ursoni de Abetot, et omnibus Baronibus, et fidelibus suis tam Francigenie, quam Angligenis de W. recessit, salutem. Lib. rub. in Scacario, f. 163. b. This was the direction of the famous Charter of Hen. I. to Samson Bishop of Worcester, who was a *Norman*. *Godwin. de Præsul.* p. 509. and in the Province of Dork, ib. p. 23. and so was Urso de Abetot, who was made Hereditary Sheriff of Worcester-shire by the Conqueror, and had many Lands given him in that Shire, Gloucester, Hereford, and Warwick-shires; *Dom. sdays*

Francigenæ
and Angligenæ
were such
Normans as
were born in
Normandy and
England.

Normans that
had their con-
stant residence
here were re-
puted English.

Why Ralph
Archbishop of
Canterbury
was called Do-
mesticus.

Book in those *Counties*. And if in this place, the direction to *French* and *English*, signifies any thing more than bare form, the *Francigenæ* were such as were born in *Normandy*, or beyond the Sea, and the *Angligenæ* were probably such as were born in *England*, and lived here, injoyed their Fathers Estates, or had had Estates given them for their own Services and Merits.

The direction of the same *Charter* of *Hen. I.* in *Mat. Paris* is thus: *Hen. Dei gratia Rex Angliæ Hugoni de Norland Vicecomiti, & omnibus fidelibus suis, tam Francis quam Anglicis, in Herefordshire salutem, &c.* f. 55. n. 40. This *Hugo de Norland* was a *Norman* of an ignoble Stock, and a very ordinary person, advanced by King *Henry* above *Earls*, and *Illustrious Men*, and beyond what his Father ever possessed. *Order.* f. 805. B.C. And here the words of direction are *Francis & Anglitis*, almost equivalent with the other, the only difference is, they point at the place of Birth, and these at the place of Residence, and purporting such *Normans* that had Estates here, and lived in *Normandy*, or that sometimes were here, but mostly there, & other *Normans* that had their constant and fixed residence here, and were called and reputed *English*.

And that this is not said without Authority, observe the direction of the *Charter* of King *William I.* by which he severs the *Ecclesiastick* pleas from *Civil Causes*. *Willielmus Dei Gratia Rex Anglozum, Radulpho Baimardo, Salfrido de Magna Villa, & Petro de Aloniis* (all three *Normans*) *Ceterisque meis fidelibus de Eber, Hertfordshire, & de Middelex, Sciatis vos omnes & Ceteri mei fideles qui manent in Anglia, &c.* *Spelm. Concil. Vol. 2. f. 14. A.D. 1085.* Certainly the *English-Saxons* would never have left *England* if they might have staid freely without injury and oppression, and enjoyed their Estates; and therefore the *Ceteri fideles* that staid in *England*, besides those three here named, were *Normans* also, and reputed *English*, because of their Residence here. The same directions, and in the same words, and to the same persons, are in the *Charter* or *Grant* of *Stroxtford Castle*, with the Lands belonging to it, To *Maurence Bishop* of *London* in the last year of the *Conqueror*, A. D. 1087. *Dugd. Hist. of St. Pauls, f. 196.*

Anno Domini 1114. and the 14th of *Hen. I.* April 25. *Ralph Bishp* of *Rochester* was chosen *Archbishop* of *Canterbury*, and going thither, on the 17th of *May* following, it is said of him, *Egit primos dies Introitus sui, in magna Gloria, & Diviti rerum apparatu, gaudentibus Cunctis, & Deum Collicantibus, quod jam tandem, post diutinam expectationem, Ecclesia sua Pastorem, non de externis, sed de Domesticis instituere dignatus sit.* *Eadmer, fol. 110. n. 10. 20.* Men will be apt to think, because he is called *Domesticus*, that this *Archbishop* was an *English-Saxon*, and not a *Forreigner*, when it was not so: for he was a *Norman* born, first a *Monk*, then *Supprior*, *Prior*, and at last *Abbat* of *Sees* in *Normandy*. *Godw. de Præsul. p. 96. Malmsb. f. 131. a. n. 20. 30. 40.* The reason why he was called *Domesticus* probably was, for that being forced out of *Normandy* he had remained in *England* some time with the *Archbishop*, who made him *Bishop* of *Rochester*, where he remained six years before his Translation, there being a multitude of *Norman Abbats* lately come over, and plying up and down for Preferments. *Ibidem.* Or he might be called *Domesticus*, in respect of *Faricius* an *Italian*, then *Abbat* of *Farendon*, to whom the *King* had a mind to give the *Archbishoprick* of *Canterbury*, but was perswaded by the *Bishops* and great Men to confer it upon this *Ralph* or *Rodulph*. *Eadmer, f. 109. n. 40. 50. f. 110. lin. 5. Malmsbury. f. 131. a. lin. 5.* If so, *Normans* were not in *Eadmer's* opinion, *Externi, Forreigners* or *Strangers*. *Ste-*

A

B

C

D

E

F

A Stephanus Rex Angliæ Archiepiscopis, Episcopis, Abbatibus, Comitibus, Justiciariis, Vicecomitibus, Baronibus, et omnibus fidelibus suis Angliæ, salutem. The chart of Agreement between King Stephen, and Henry the Second, Brompton, Col. 1037. n. 60. The Witnesses to this Chart were Theobald Archbishop of Canterbury, Henry Bishop of Winchester, Robert Bishop of Exeter, Robert Bishop of Bath, Jocelin Bishop of Salisbury, Robert Bishop of Lincoln, Henry Bishop of Ely, William Bishop of Norwich, Richard Bishop of London, Nigel Bishop of Ely, Gilbert Bishop of Hereford, John Bishop of Worcester, Walter Bishop of Chester alias Coventry, Walter Bishop of Rochester, Geoffrey Bishop of St. Asaph, Robert Prior of Bermundley, in MSS. Rec. Diun a Knight-Templar, William Earl of Gloucester, Reginald Earl of Cornwall, Baldwin de Dunnington. in MSS. Comite Devon, Roger Earl of Hereford, Hugh Bigot, Patrick Earl of Salisbury, William de Alba Marla, Earl Albizic, perhaps of Oxford, Roger Earl of Clare, Richard Earl of Penbrooke, Richard de Lucy, William Martel, Richard de Pomer, Reginald de Warenna, Manasser Biser, John de Port, Richard de Cambille, Henry de Essex. Ibidem, Col. 1039. n. 50. All these Bishops, except the Welsh Bishop, were Normans or Foreigners, and so were all the Earls and Barons from Norman, or other Foreign Parents and Extraction; yet we see they were English Bishops, Earls and Barons.

Baldwin de Redvers at this time Earl of Devon.

All these Bishops save one, and Noblemen were Normans and Foreigners, and yet called English.

C Decimo Sexto Kalendarum Januarii Coronatus est, Rex Henricus filius Matildis Imperatricis à Theobaldo Cantuariensi Archiepiscopo, totius Angliæ Primate, et Apostolicæ sedis Legato apud Westmonasterium, Assistentibus et Cooperantibus Archiepiscopis Duobus, Quatuordecim Episcopis, Comitibus, et Baronibus Anglicanis, et Transmarinis, et innumera multitudo plebis. Gervas. Dorobern. Col. 1376. n. 60. There was then but Sixteen Bishopricks in England, and both the Archbishops, and all the Bishops, at that time, were Normans and Foreigners, and all these English Barons were likewise Normans; that is, they were of Norman Parents and Extraction.

A. D. 1154. primo Hen. 2. All the Bishops that assisted at King Hen. Coronations were Normans or Foreigners.

E Rex Henricus Normaniam ire parabat, Francos, suosque vicinos sibi inimicitias extruentes, paci subigere, qua præditus erat industria volens. Sed ne quid in Anglia, se abeunte, remaneret indispotum, monasteria cuncta, quæ jamdiu curâ pastoralis fuerant destituta, Consilio Episcoporum, et principum suorum, locatis personis, in hoc officium ordinavit, Quod si aliqui eorum Lupi magis quam Pastores effecti sunt; ipsi viderint, Rex eos ut Pastores, non Lupi essent (sicut credi fas est) collocavit. Quod tamen credibilis forte videretur, si non omnes ex alienigenis, sed aliquos saltem ex indigenis terra. Non usque quaque Anglos perosus, tali in ministerio substitisset. Vite etenim meritum, ac regularis observatio Disciplina, necnon prudentia Rerum administrandarum, quæ oportebat eis qui respuebantur, non minus quam eis inerat, qui assimebantur; unum eos, Natio scilicet, Dirimebat. Si Anglus erat, nulla virtus, ut honore aliquo dignus judicaretur, eum poterat adjuvare. Si alienigena, solummodo, quæ alicujus boni speciem, amicorum Testimonio prætenderent, illi ascriberentur, honore præcipuo ilico dignus judicabatur. Eadmer. f. 110. n. 30. 40.

A. D. 1114. Hen. 1. 14.

None but Strangers advanced to any Preferment in the Church.

That is, *King Henry* prepared to go for *Normandy*, intending to quiet the *French* and their *Neighbours*, who were contriving against him. Before his departure, by the advice of his *Bishops* and Great Men, he filled the Vacancies of all *Monasteries*, which a long time had been destitute of *Pastors* or *Governours*; and if any of them prove Wolves, rather than Pastors, let them look to it. The *King* (as may verily be thought) placed them there to be Pastors, not Wolves: which yet would have seemed more credible, if the *King* had not so far hated the *English*, as to have put into those Places, not all *Strangers*, but some *Natives* of the Land: For there was not less merit, or observation of Regular Discipline, nor prudence in Administration of Affairs in these that were rejected, than in those that were assumed and approved of. There was but one thing that kept them from these Offices, to wit, their Nation or Country: If he was an *English-Man*, no Virtue could qualify him for any Preferment; if he was a *Stranger*, and had but a pretence only to Goodness by the *Testimony* of Friends, he was judged worthy the greatest Preferment.

Nothing could
qualifie an
English-man
for Prefer-
ment.

Here without doubt by *English*, the *Saxons* were meant and understood, as may most probably be asserted from the Circumstances of the *Antithesis*, or *contra-distinction* between them and *Strangers*: though they do not absolutely and necessarily prove it. For fresh *Normans*, like Birds of Prey, came every day into *England* seeking Preferments; and it was forty seven years now since the Conquest, and the complaint might be taken up, as well for the *Norman*, as *Saxon Natives*; the word used in contra-distinction to the words *Angli*, and *indigenæ terræ*, being only *alienigenæ*.

William King greets *William Bisceop* & *Godfred Potrefan*, & *Calle ya Burghwaren binnen London, Frencilse & Englisce*. That is, *King William* greets *William Bishop* and *Godfrey the Port-Rebe*, and all the Inhabitants of the *Burgh* within *London*, *French* and *English*. This *Charter* was granted by the *Conqueror* to the *Burgh*, *City* or *Port* of *London*, in the time of *William Bishop* of the same, who was a *Norman* and *Bishop* there, as well before as after the Conquest, and died in the year 1070, the Fourth of *King William*, when he had not made an absolute Conquest of *England*: for at his first entrance many *English* enjoyed their Estates and Titles, as they had done before his coming; and it may be, some, until he had wholly subdued the Nation. So that by *French* and *English* in this *Charter*, the *Saxons* and *Normans* are to be understood; and indeed in *Burghs*, and Trading Towns, those words may be understood of them at all times: for the *Conqueror* turned not out the Inhabitants there, or took away the small Fortunes they traded with, he let them remain there, and Work, and Trade, he only taxed them when he pleased, or at least raised their Tolls and Customs, and placed and settled his *Normans* amongst them, to keep them in subjection, who had in many Towns where they lived and traded more easie Privileges than the *English*, and the same they had before in the Towns and *Burghs* from whence they came in *Normandy*. See the Answer to *Argumentum Antinorman*. f. 289. E.

By French and
English, is
meant Saxons
and Normans
in the particu-
lar Charter to
the City of
London, &c.

In

In old *Charts* we find the words *Angli*, & *Anglici*, *Angligenæ*, contra-distinguished to the words *Franci*, and *Francigenæ*.

A *Willielmus Rex Anglozum, Walterio Vice-Comiti, & omnibus Baronibus suis Francigenis & Anglis, de Comitatu de Glocestre, salutem, sciatis me dedisse Ecclesie sancti Andree de Robecetra, & Episcopo Eundulpho Manerium Estona Testimonio, Walcelmi Episcopi Wintoniensis, & Roberti Episcopi Lincolnensis & Willielmi Cancellarii, & Ranulphi Capellani, & Eudonis Dapiferi, & Rogeri Bigor, & Hugonis de Ebermu. Monast. Angl. Vol. 1. f. 29. n. 20.*

B *Willielmus Dei Gratia Rex Anglozum Fidelibus suis Francigenis & Anglis, salutem, sciatis me Concessisse eam Donationem quam Haimo Dapifer meus fecit Ecclesie sancti Andree Roffensis Civitatis de Ecclesia, &c. Testes Robertus Comes Bellent, Robertus Comes de Porcrollo, & alii multi. Ibidem, n. 40.*

The *Fideles* and the *Barones* in the former *Chart* the same.

C *Willielmus Rex Anglozum Episcopo de Surbfolca, & Vicecomiti, & aliis Baronibus suis Francigenis & Anglis, salutem, sciatis me Concessisse & Confirmasse Donum Rogeri Bigor, quod dedit Ecclesie sancti Andree Robecetre scilicet Ecclesiam de Maletuna, &c. Testimonio Eudonis Dapiferi apud Wintoniam. Ibidem, n. 50.*

Willielmus Rex Anglozum Episcopo de Surbflera, & Vicecomiti & ceteris Baronibus suis Francigenis & Anglis, salutem, sciatis me concessisse & Confirmasse Donum Gisleberti de Conebridge, quod dedit Ecclesie sancti Andree Robecetre, scilicet Ecclesiam de Rathwelda, &c. Testimonio Rogeri Bigor & Haimonis Vicecomitis apud Wintoniam. Ibidem, n. 60.

D *Willielmus Rex Anglozum O. Episcopo Sarisberienfi, & L. Abbatu Glastonienfi & A. Vicecomiti omnibusque Baronibus Francigenis & Anglis de Summerfeta & Wiltunescire, salutem, sciatis me dedisse Deo & Sancto Petro in Bathonia & Johanni Episcopo totam Civitatem Bathonia in Elemosinam, & ad Augmentationem Pontificalis sedis sue; & ut cum maximo bonore, ibi Pontificalem suam habeat sedem, & de hoc propalantur Testes, Walkelinus Wintoniensis Episcopus, Robertus Lincolnensis Episcopus, Robertus Comes de Bellent, Henricus Comes de Warwicke, Robertus filius Haimonis, Eudo Dapifer, Ibo Dapifer, Robertus filius Geraldii, Robertus Dispensator, Willielmus de Carokela. Ibidem, f. 185. n. 10.*

F *In Nomine Patris, & Filii, & Spiritus Sancti, Amen. Henricus Gratia Dei Rex Anglozum Omnibus Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus & Fidelibus suis Francis & Anglis, Notum sit vobis quod eam Donationem, quam Donavi Deo, & Sancto Petro in Batha, ubi frater meus Willielmus & ego Constituimus, & Confirmavimus sedem Episcopalem totius Summerfete, que olim erat apud villam que dicitur Maella, &c. Hujus rei Testes sunt Rogerus Salesberienfis Episcopus, Willielmus Eron, Willielmus Winton, Richardus London, Robertus Lincoln, Renielmus Hereford, Hebeius Eliensis, Radulphus Cancellarius, Johannes Baiocensis, Ehzard, Barnardus, Gumbaldus Medicus, Gilbertus*

bertus de Aquila, Goisfridus de Bagna Ulla, Thomas de sancto Johanne, Willielmus Peberel de Dobza.

Rex Willielmus Anglozum Roberto Lincoln. Episcopo, et omnibus Francis et Anglis, Lincoln, salutem. Sciatis me Concessisse, quod Osbertus de Lincoln det illas undecim Bovatas Terra, quas tenet in Binnebror de me Ecclesia S. Mariæ Lincoln in prebenda, &c. Testibus Rogero filio Geroldi, et Geroldi de Calz. apud pontem Arcars (Pont, Larch in Normandy) pridie post Festum Sancti Martini. Monast. Angl. Vol. 3. f. 262. n. 30.

A

Willielmus Rex Anglozum T. Vicecomiti, omnibusque fidelibus suis, salutem. Sciatis me dedisse Sanctæ Mariæ Ecclesiæ Lincolnensi et Roberto Episcopo Ecclesiam Sancti Martini cum omnibus appendiciis, &c. Teste Vicecomite. Ibidem, n. 40.

B

Hen. Rex Angliæ, Thomæ Archiepiscopo, et Rigello de Albeni et Osberto Vicecomiti et omnibus Baronibus et fidelibus Francis et Anglis de Eberwicsira, salutem. Sciatis me dedisse Roberto Lincolnensi Episcopo, Ecclesias scilicet de tribus Maneriis meis, videlicet Cuctwald, et de Chirchebi et de Honingebam, &c. Teste Rigello de Albeni apud Wodestocam. Ibidem, Col. 2. n. 20.

Hen. Rex Angliæ Ranulpho Bescino, Osberto Vicecomiti, et Picoro filio Collueni et omnibus Baronibus suis de Lincoln, salutem. Sciatis me Concessisse Roberto Episcopo Lincoln, ut faciat exitus in Muro Castelli mei ad sua necessaria facienda ad Domum suam, ita Tamen ut propter hoc murus Debilitetur. Testibus Alano de Lincoln et Osberto Vicecomite apud Londonias. Ibidem, n. 30. 40.

C

Hen. Rex Angliæ Osberto Vicecomiti et omnibus Baronibus suis et Burgensibus Lincoln, salutem. Sciatis me dedisse Deo et Sanctæ Mariæ Linc. et Episcopo Roberto, et Canonicis vineam meam Lincoln, et quod ei pertinet, et Johannes prepositus eos inde saisat. Teste W. Cancellario apud Stanford. Et Testibus Eudone Dapifero, et Arlone de Abetot. Ibidem, f. 263. Col. 1. n. 20.

D

Hen. Rex Angliæ Ran. Bescino et Osberto Vicecomiti et omnibus fidelibus suis Francis et Anglis de Lincolnscira, salutem. Volo et precipio, ut Sancta Maria de Lincoln. et Robertus Episcopus, et Canonici Sancta Mariæ, ita bene et honorifice teneant Manerium de Welleluna, &c. Testibus W. Cancellario, et Arlone de Abetot apud Rimeriam. Ibidem, f. 264. Col. 1. lin. 5.

E

Hen. Rex Angl. Roberto Episcopo Lincoln. et Canonicis Sanctæ Mariæ Lincoln. et omnibus Baronibus Francis et Anglis de Lincolnscira et de Oxfordscira et omnibus Baronibus totius Episcopatus Lincoln. Sciatis me Dedisse et Concessisse Deo et S. Mariæ et Ecclesiæ Lincoln. Ecclesias de Sutton, &c. Testibus Gaufrido Episcopo Rothomagi, et Ran. Cancellario apud Hereford. Ibidem, n. 20.

F

Hen. Rex Angl. Roberto Lincoln. Episcopo, et Ran. Bescino, et Osberto Vicecomiti et Baronibus suis et fidelibus Francis et Anglis de Lincolnscira, salutem. Sciatis me Concessisse Sanctæ Mariæ de Lincoln

colia

colia Ecclesiam Brand Presbyteri de Corngheham, &c. Teste Ran. Welschino apud Wircetstr. Ibidem, Col. 2. lin. 5.

A Hen. Dei Gratia Rex Angl. Roberto Cobentrensi Episcopo, & Ricardo Vicecomiti & Rogero Comiti, & Willielmo Debetel. & Roberto de Ferrariis, & omnibus fidelibus suis de Notinham, circa & de Derberescira, salutem. Sciatis me dedisse D. o & Sancte Mariæ Lincolien. Ecclesie, Ecclesias de Derbeia & de * Wercbeford, &c. in prebendam, &c. Testibus Matilda Regina, & Roberto Paimonis filio, & Hamone Dapifero, & Wlone de Haberor, & Roberto Vicecomite Lincolia. Ibidem, n. 50.

* Alias Wercf-
worda.

B Hen. Rex Angliæ omnibus Justiciariis, & Baronibus, & Vice-Comitibus, & omnibus fidelibus suis totius Angl. salutem. Sciatis me Concessisse Alexandro Episcopo Lincolniæ, totam tertiam partem de servitio Militum suorum de Episcopatu Lincolniæ; ad ponendam eam ad Castellum suum de * Werra, &c. Teste R. Episcopo Sarum & G. Cancellario, & W. de Pontearch apud Blarhemozam. Ibidem, f. 266. Col. 1. n. 20.

* Newark
Castle.

C Hen. Rex Angl. Justiciariis, Vice-Comitibus, Baronibus, & Ministris, omnibusque fidelibus suis, Francis & Anglis de Lincolscira, salutem. Sciatis me Concessisse & Confirmasse Deo & Sancte Mariæ Lincol. & Roberto de Grainbil canonico Villam Algherbi, cum omnibus Appendiciis suis, quam scilicet Rogerus filius Geroldi dedit D. o & Sancte Mariæ Lincol. & predicto Roberto in prebendam & Elemosinam, &c. Testibus R. Sarum Episcopo & Roberto Comite Glocestria, apud Westmon. Ibidem, f. 267. Col. 1. lin. 7.

D Stephanus Rex Angliæ, Archiepiscopus & Episcopus, et Justiciariis, et Vice-Comitibus, et Baronibus, et Ministris, et omnibus fidelibus suis totius Angliæ, salutem. Sciatis me dedisse et concessisse Deo et Ecclesie beate Mariæ Lincol. in prebendam Ecclesiam de Hamptona in terris et Decimis et omnibus aliis pertinentiis. Testibus Ricardo de Luci, et Willielmo de Castineto, et Ricardo de Cambil apud Drenford. Ibidem, f. 266. Col. 1. n. 60.

E Hen. Rex Angliæ Dux Norman. et Aquitan. et Comes Andegavia, Justiciariis, Vicecom. et omnibus fidelibus suis, Francis et Anglis de Lincolia, et de Lincolscira, salutem, &c. Testibus Rogero Eborum Archiepiscopo, et T. Cancellario et Richardo de Luci, et Marino filio Geroldi Camerario. Et Willielmo filio Paimonis, et Roberto de Duness, et Jocelino de Baillol. apud Lincoliam. Ibidem, f. 267. n. 50.

Hen. II.

F Willielmus Comes Cicestræ omnibus hominibus Francis et Anglis, et omnibus Dei fidelibus, &c. Testibus Johanne Decano Cicestræ, Henrico Cantore, Rogero Thesaurario, Monast. Angl. Vol. 3. f. 123. Col. 2. n. 30.

Willielmus Comes Cicestræ omnibus sanctis Ecclesie filiis, Ego concedo omnes Donationes quas Barones mei, Canonici Ecclesie Cicestræ Donaverunt vel Donaturi sunt. Ibidem, n. 50.

This

This William Earl of Chichester was William de Albini, Son to that famous William de Albini that came in with the Conqueror, and was his Butler: This William was really Earl of Suffex and Arundel, but from the places of his abode called sometimes Earl of Arundel, and sometimes of Chichester. Dugd. Baron. Vol. 1. f. 119. Col. 1. 2.

His Grandfather William Earl of Ou, or Ow, came in with the Conqueror; and though he had no English Title, yet he had Lands given him in most Counties in England. See Append. n. 10.

Johannes Comes Augensis omnibus Baronibus, atque omnibus hominibus suis Francis et Anglis, salutem. This John Earl of Du in Normandy did acknowledge in this Chart, that his Grandfather and Father did unjustly take away and with-hold from the Church of Chichester, the Mannor of Bixile, and by this Chart he doth restore it, *facta autem est hæc restitutio anno Incarnationis Dominice 1148. Testibus hujus Restitutionis presentibus, Roberto London, Radulpho Bathon. Simon Wigorn, et Roberto Eron. Episcopis. Serbas Westmon. Edw. de Reading, et Galfrido de Waverlega Abbatibus et aliis,* Monast. Angl. Vol. 3. f. 127. n. 20. A

Rogerus Comes de Warwick, omnibus Baronibus suis, et Burgensibus, et hominibus suis de Cota et omnibus hominibus suis Francis et Anglis, salutem. By this Chart he confirmed all Lands, &c. to the Churches of St. Maries and All-Saints, (I suppose in Warwick) *Testibus Comitissa, Waltero Capellano, Gilberto de Thil, Edwino preposito.* Ibidem Ecclesia Collegiata, f. 28. Col. 1. n. 20. B

This was Gilbert Giffart, Ibidem, n. 40.

Baldwinus de Redberiis Comes Devonix et Richardus filius et hæres ejus Domino suo Henrico Episcopo Wintonix, et omnibus Baronibus et hominibus suis Francis et Anglis, salutem. This Chart was a Confirmation of Lands given to the Monastery of Twynham, by his Father Richard, made Earl of Devon by Hen. I. *His Testibus Lucia Comitissa, Henrico de Redeberiis et Willielmo fratre ejus,* (these were two younger Sons) *et multis aliis.* Monast. Ang. Vol. 2. f. 180. Col. 2. n. 20. C

Robertus Warmiun omnibus fidelibus suis Francis et Anglis, salutem. By this Chart he gave Buregate to the Monastery of Bardene, *Testibus Ddone Capellano, Roberto de Fonteney, Rogero de Boy, Ddone clerico, Roberto de Faleys.* Ibidem, f. 850. Col. 1. n. 40. This Robert de Warmiun came in with the Conqueror, and Robert de Fonteney, so named of Fonteney Castle in Normandy, was his Son and Successor in the Honor of Camworth, given to his Father by the Conqueror. Dugd. Baron. Vol. 1. f. 375. Col. 1. 2. D

The various Forms of Directions of Charts.

I have been thus large in shewing the great variety of the Directions of many Charts of our Ancient Kings and Barons, from which it should seem they were meer forms, and nothing else, and never designed to distinguish the Extraction and Countries of those to whom they were directed, seeing they were no ways concerned in them, as their Contents, or in point of interest or advantage they were to receive by them. 'Tis sometimes said, *Omnibus Baronibus suis Francis et Anglis*; sometimes *Omnibus Baronibus suis*, without the additional words of *Francis et Anglis*; sometimes *Omnibus fidelibus suis Francis et Anglis*; sometimes only *Omnibus fidelibus suis*. Sometimes the direction is *Omnibus hominibus suis Francis et Anglis*; sometimes barely *Omnibus* F

Omnibus hominibus suis; and there are as many directions in Ancient *Charts* without the words *Francis & Anglis*, as with them. Sometimes 'tis *Omnibus Baronibus & fidelibus*, &c. Sometimes to particular persons, as to the *Bishop* of the *Diocese*, and *Sheriff* of the *Countie*, and *Aliis* or *Ceteris Baronibus suis*. Otherwhile *Omnibus Baronibus suis*, after particular persons of such or such a *Shire* or *County*, and yet seldom or never above one or two concerned in the *Grant*. These Variations are argument sufficient, that they signified no more than if the Direction had been *Omnibus Christi fidelibus*, or *Universis sancte Matris Ecclesie filiis presentibus & futuris*; or according to these forms, *Notum sit omnibus, sciant presentes & futuri*, &c.

But if these Directions were made with intention of a distinctive Note, between the old *English-Saxon*, and new *French* or *Norman Barons*, 'tis strange that after the *Conqueror* was firmly established in the *Throne*, and at the very time of making some few of these *Charts*, in and toward the end of his *Reign*, and of the others in the *Reigns* of *William the Second*, and *Henry the First*, &c. Not one *English-Saxon Baron* should be found or heard of. From whence 'tis evident, if real *Barons* were meant or intended by the words *Barones Franci & Angli*, the *English Barons* covered under those Expressions, could be no others than such as had been born in *England* of *Norman Parents*; or such as came in with the *Conqueror*, that had great *Estates* given them, and made their constant abode in *England*. And the *Norman Barons* no other than such as had great *Estates* and *Baronies* in *England*, as also they had in *Normandy*, where they either altogether, or for the most resided, and were not in *England* but upon extraordinary *Occasions*, and extraordinary *Summons*, and differed not from the others by *National Paternal Descent* or *Extraction*, but only by *National Residence* or *Nativity*, from whence they had their *Denominations* of *French* and *English*.

To illustrate in part what is said concerning such *Normans* as were born in *England*, that they were reputed *English*. I will give one considerable Instance of a very considerable Person, from the Genealogy of the *Founders* of the *Priory* of *Lacock* in *Wiltshire*. *Erat quidam Miles Strenuus Normannus, Walterus le Ewrus Comes de Rosmar, cui propter probitatem suam Rex Gulielmus dedit totum Dominium de Saresburia, & Ambresburia: Antequam ille Walterus le Ewrus in Angliam venit, genuit Geroldum Comitem de Rosmar le Gros, qui genuit Gulielmum de Rosmar le Belchyn Secundum, qui genuit Gulielmum Tertium de Rosmar qui obiit sine liberis; postquam Walterus le Ewrus genuit Edwardum, Natione Anglicum Natum, postea Vicecomitem Wiltell. &c. Dagd. Monast. Vol. 2. f. 341. Col. 1. n. 50 60.* That is, There was *Walter le *Ewrus*, or the *Lucky*, a stout *Norman Knight*, *Earl* of *Rosmar*, to whom for his *Courage* *King William* gave the whole *Dominion* of *Salisbury* and *Amesbury*: before this *Walter* came into *England*, he begot *Gerold* the *Great* or *Dull*, *Earl* of *Rosmar*, and he begat *William le Belchyn*, or the *Higgard*, the *Second*, who begot *William the Third*, who died without *Children*. Afterwards *Walter le Ewrus* begot *Edward*, by *Nation* born an *English Man*, who in process of time was *Viscount* or *Sheriff* of *Wiltshire*. This was *Edward* of *Salisbury*, (so named from the place of his *Birth* or *abode*) who had a great *Estate* in

Not one English Saxon Baron to be found among the Barones Franci & Angli.

* A Corruption of the obsolete word *Eureux*, which was used for *Heureux*, lucky or fortunate.

Wiltshire, and had Lands in Middlesex, and in Dorset, Summer-
set, Hereford, Buckingham and Oxfordshires, as appears by Dooms-
day-Book in those Counties. Ela the only Daughter, and Heir to
William Son of Patrick first Earl of Salisbury, and Great-Grand-
Child to this Edward, was Married to William Longespee Son to
King Henry 2. to whom his Brother King Richard the First gave the
Earldom of Rosmar as the inheritance of Ela, which came to her by
the hereditary right of Edward of Salisbury Son of Walter le Tw-
rug. *ibid.* Col. 2. n. 10. 20. from the Register of the Priory of
Lacock.

Such Titular
Barons, which
were great
Tenants to
great Earls
and Barons,
were here, ac-
cording to the
example of
Normandy. See
Order. Vital.
f. 810. C.

As for the Barons of great Earls, they were their great Tenants on-
ly, and but Nominal and Titular Barons, who held of them great E-
states as 4. 5. 6. 8. 10 Knights Fees, &c. and they held them immedi-
ately of the King, and these Titular Barons were Normans, no Man
being able to shew many English-Saxons, if any at all, that posses-
sed any great Estates in Military Services, or Knights Fees. Yet many
there were that held Estates by Rent, or other mean and base Services
of the Normans, and very frequently their own Lands or part of them
by new Tenure, or some part or parcels of the Lands of other Saxons
that had been Dispossessed.

But if any one can shew that any of the Witnesses to these Charters,
or any other Charters of the ancient Norman Kings, after the middle
of the Reign of William the first, were English-Saxons, or can
shew any English-Saxon Earls, Barons, or Great Men that were in
Eminent places near our ancient Norman Kings, or were in any pub-
lick Trusts and Employments, nay that can shew any such that had any
Considerable Estates except one or two, who at the first coming of the
Conqueror Married his Nieces and Relations, (which nevertheless con-
tinued not long in his favour) I will confess I am in the wrong.

Antecessor, Antecessores.

Antecessor
doth not refer
to Proximity
of Blood or
Kindred, as it
used in Dooms-
day-Book.

IN the Survey of England called Doomsday, these words do very of-
ten occur, but they there do not signifie such an *Antecessor*, or
Ancestor as in the Writ de Horte Antecessoris, the Father, Uncle,
or next of Kin to the Petent or Demandant, to whom he was next
Heir, but they signifie only a bare Predecessor, one that possessed the
Land before the present Possessor, without any Relation to Blood, or
Kindred, and the *Antecessor* there most commonly was he that posses-
sed the Lands in King Edwards time before the Conquest, yet some-
time the *Antecessor* was a Norman, where the Lands had passed through
two or three Hands between the time of the Conquest and the time of
making the Survey; a few instances will make it clear.

Clamores

*Clamores in Sudtredinge Lincoliae, in great
Doomsday-Book at the latter end.*

A **D**E Calumnia quam Archiepiscopus Thomas (Archbishop of York) faciebat, hoc est quod debebat habere, Socam super terram Siward Antecessoris Iovis Callebois. Dicit Wapentach et Tredinge, quod Siward tam bene tenuit terram suam cum Saca et Soca, sicut tenuit Godwinus Antecessor Archiepiscopi, et ideo non recte clamat. Here were Siward a Saxon, Antecessor to Ivo Callebois a Norman, and Godwin, Antecessor to Archbishop Thomas, who was a Norman, and Canon of Bateur, and made his Claim in Right of his Church.

The Conqueror gave to this Ivo Talbois in Marriage Lucia the Sister of the Earls Edwin and Morcar, and with her all their Lands in Lincolnshire. Ingulph. Hist. Cro. l. f. 513. a. lin. 2.3.

B T. R. E. fait [1] *saistus Almar Antecessor Archiepiscopi Thomae de Soca decem Bovat. in Ullingham, &c.* These were no Antecessors in Blood.

[1] Ibid. Tempore Edw. Reg.

C In Derfincham [2] *unus liber homo de xii Acris Val. xii d. hoc tenet Petrus Galonensis (a Norman) de hoc habuit suus Antecessor. Commendationem tantum. Strigandus Socam.* And thus it is wherever Antecessor is named, and there cannot be any pretence for Proximity of Blood and Kindred; between the Antecessor and Successor.

[2] In the same Book in the enl. Tit. Invasiones in Nordfule.

In the Chart of William [3] the Conqueror, by which he restores to St. Paul's in London all the Lands taken away in the time of his Predecessors, 'tis Tempore Antecessorum, who could not be Ancestors in Blood to whom he was Heir.

[3] Dugd. Hist. of St. Pauls, f. 190.

D King Henry the First, [4] mentioning the Customs and Rights which those that held Lands in the Wapentachs belonging to the Bishop of Lincoln, commanded they should do them as fully as ever they performed them to Robert Bishop of Lincoln, *vel alicui Antecessori suo.* This Robert was Robert Bloer, Consecrated Bishop of Lincoln, A. D. 1092. and died Jan. 10. 1122. to whom succeeded Alexander, Consecrated Jul. 22. A. D. 1123. and sat 24 years; they were both Normans. Godwin de Presul. p. 340. 341.

[4] Cart. Hen. 1. Monast. Angl. Vol. 3. f. 261. Col. 2. ll. 50.

E The Archbishop of York in his Chart or Certificate to King Hen. II. how many Knights Fees he held, in Capite, saith thus, *Antecessores nostri non pro necessitate servitii quod debent, set quia Cognatis et servientibus suis providere volebant, &c.* In Lib. Rub. in Scacario, Tit. Eborascire. Here could be no Proximity, no Relation in Blood in these Cases.

F

Appeal, Appellatio, Appellum.

THe *Civilians* use the word *Appellatio*, and it most commonly signifies with them, a removing of a Cause from an Inferior to a Superior Jurisdiction. Most of the *English Lawyers*, both Antient and Modern do use the word *Appellum* from the *French Appel*, (who yet use it in the same sense the *Civilians* do.) [5] *Briton* and [5] *Stamford* say an *Appeal* is a *Plaint* which one Man makes upon another, with purpose to attain (i. e. prove him Guilty) of Felony by a certain form of words conceived in his own Name, which anciently according to [6] *Bracton* were these; *A. appellat B. de morte C. fratris sui, quod sicut ipse A. & C. frater suus essent in pace Dei & Domini Regis, apud Talem locum, faciendo quoddam Tale, vel transiendo à Tali loco usque ad Talem locum, Tali die, Tali anno, & Tali hora; Venit idem B. cum talibus nominandis, & nequiter & in * Felonia, & in assultu premeditato, & contra pacem Domini Regis ei datam, fecit idem B. prædicto fratri suo C. Unam plagam mortalem in Capite quodam Gladio, vel aliquo alio genere armorum Molutorum, ita quod obiit infra Triduum, de plaga illa; Et quod fecit hoc nequiter & in felonia, & contra pacem Domini Regis, offert se Disfrationare versus eum ubicunque per Corpus suum. Sicut ille qui præsens fuit & hoc vidit, & sicut Curia Domini Regis considerat.*

That is A. appeals B. of the Death of his Brother C. That he the very A. and his Brother C. were in the peace of God and the King, at such a place (which was particularly to be named) doing such a certain thing, (which was also to be named) or passing from such a place to such a place (which were likewise particularly to be named) such a day, such a year, and such an hour, (all which were to be named) the same B. came with such, which were to be named, and wickedly and feloniously, and by premeditated (or prepened) Assault, against the Kings peace, made a mortal wound in the head of B. his said Brother, with a certain sword, or other sharp weapon, so that he died of that Wound in three days; and that he did this wickedly, and feloniously, and against the peace of the King, he offers himself to prove it by his Body, (that is by Duel) in any place whatsoever, as he that was present and saw it, and as the Kings Court shall award, or judge. If there were any Accessories or Assiliants in the Murder, then there was an *Appeal* of Force, as 'twas called, brought against them, [7] *Idem A. appellat talem de fortia quod cum ipse & C. frater suus, &c.* and then says how he bound or held his Brother, or gave other assistance whilst B. killed him.

The *Defendent* or *Apellee* was also bound to a form of words. [8] *Et B. de facto similiter venit, & Defendit omnem feloniam, & pacem Domini Regis infractam, & quicquid est contra pacem Domini Regis, & Mortem & omnia quæ versus eum * proponuntur, & totum de verbo in verbum, secundum quod contra ipsum proponitur; & tunc habebit electionem ponendi*

[5] P. 38. b.
[5] Lib. 2.
c. 6. p. 58. b.

[6] P. 138. a.
n. 2. lib. 3. c. 19

* This is almost a Tautology; for *Felonia* is a Gothick Feudal word, and signifies only a great and heinous wickedness, from the word *fehl*, or *feil*, *noxa*, *defectus*, *lapsus*, *peccatum*. *Loccen. in Verbo.*

[7] Ibidem,
n. 5.

[8] Ib. b. n. 6.
* That is a Civil Law word, and *Bracton* was a Civilian, though a Judge of what was then reputed the Law of England.

ponendi se super [9] patriam, vel defendendi se [9] per Corpus suum sic dicendo. Quod inde non est * Culpabilis, & ponit se super patriam pro Bono & Malo (si patriam elegerit) vel paratus est Defendere versus eum per Corpus suum, sicut Curia consideraverit.

A That is, and he that is Appealed of the fact, comes and denies all the Felony, and breach of the Kings Peace, and the Murder, and all things that were propounded (i. e. objected) against him, and denied the whole, word for word, as it was objected against him; and then he might have his choice, of putting himself upon the Country, or Defending himself by his Body (i. e. by Battle) by saying, Not Guilty, and putting himself upon the Country for Good and Bad, or for Better and Worse; Or that he was ready to make good his innocency against him by his Body, as the Kings Court should award, that is, in such manner, place and time as they should direct the Duel to be waged: and immediately Bacon describes the form, and manner of
B Waging Duel, according to the Judges Direction, and the Niceties attending it.

This was Norman Law, and in the Grand Custumer, Cap. 68. Tit. Supre de Heudze, there is the same process which is contained in this and some other following Chapters of Bacon. There are many other Appeals in Bacon; as an Appeal of Felonious wounding against the peace, lib. 3. c. 23. in which the Appellant offered to prove it by his Body. [1] In this case the wound was searched; Et designandum erit, Cujus longitudo fuerit plaga, & cujus profunditatis, & utrum sit plaga vel * Riffura, ad hoc quod procedat Duellum vel non procedat; ut sciri possit per factum, Utrum sit * Injuria vel feloniam: and it was to be discovered how long, and how deep the Wound was, and whether it was a Wound, or the Skin and Flesh was only Riffled, or as we now call it, Rippled, and that from search it might be determined whether the Duel should proceed or not, and that it might be known
D whether the Fact was a Trespass or Felony.

Another [2] Appeal there was of Wounding and Maime, and here it was laid that the Defendant or Appellee did it nequiter et in feloniam, and the Appellant offert Disfrationare versus eum, sicut homo Maimeatus, prout curia Domini Regis consideraverit; in this case the Defendant or Appellate had no Election, but was tryed per patriam, because it was granted, a Maimed man was not fit to maintain Battle against him, nor could not make proof by his Body, and therefore 'tis
E here said he offered to prove it against him as a Maimed man.

Another [3] Appeal there was of false imprisonment against the peace, and this was laid to have been done Nequiter & in feloniam, wickedly and feloniously, & hoc Appellans offert probare per Corpus suum vel alio modo sicut curia Domini Regis Consideraret, and this the Appellant offers to prove by his Body, or otherwise as the Kings Court should direct; here the Defendant had his choice of Tryal by Battle, or the Country.
F

Another there was of [4] Robbery against the peace, which was laid in the Appeal to have been done wickedly and feloniously, &c. And in this the Appellant offered to prove it by his Body; and the Appellee had his choice of Tryal by Duel, or by the Country.

Another

[9] This was the reason why the Clerk of the Assizes asks the Prisoner when he arraigns him, How he will be tryed? * After that question, the Clerk of the Assizes says Cu' Pri, i. e. Priest, he should say Non Cul. Priest, if he pleads Not Guilty; that is, he takes or chooses the Plea of Non Culpabilis, or Not Guilty, and he should say Cul. Priest, if he pleads Culpabilis, or Guilty

[1] Ibidem, lib. 3. c. 23. n. 2.

* In the next Chapter 'tis Riffura.

* Injuria is another Civil Law word for Trespass.

[2] Ibidem, c. 24. n. 1. 2. An Appeal of Wounding & Maime.

[3] Ibidem, c. 25. n. 1. 2. &c. An Appeal of false Imprisonment.

[4] Ibidem, c. 26. n. 1. 2. An Appeal of Robbery.

[5] Ibid. c. 27.
An Appeal of
Burning and
Robbing.

Another [5] there was of *Wicked Burning* and *Robbing* of Houses, the Appeal was laid in the same manner, and the *Defendent* had his choice as in others.

[6] Ibidem,
c. 28. p. 2.
An Appeal of
Ravishment,

The last is [6] of *Rape* or *Ravishment*. The Appeal was laid as others, but here was no choice for the *Defendant*, for the Woman by reason of her Sex could not maintain battle against him. In all these Appeals, the *Defendant* was to deny the Appeal word for word, as it was laid.

[7] C. 67. Tit.
De Querelles.

In the [7] *Grand Custom* of *Normandy*, these are called *Plaints* and *Suits* much oftner than Appeals. *Il ya querelle de Meudre, d'Homicide, & de Mehaing, des Tresues Françes: de Despacellement de femmes à force, de Roberie, d'assault de Charue, d'assault de Maison, de Trabison. Entre les autres nous dirons premierement de Suyte de Meudre, Come & par quelle forme de parolles len Doibt Suyr: Et toutes telles Manieres de Suytes sont Appellees de Felonie.* There is a *Plaint* of Murder, of *Homicide* or *Manslaughter*, of *Murder*, of *Truce* or *Peace* broken, of *Ravishment*, of *Robery*, of *Assault* made upon Husband-Men at Plough, or upon the Plough, of *House-Breach*, and of *Treason*. Amongst the others we will first speak of *Suit* of Murder, how and by what form of Words it is to be prosecuted, and all such manner of Suits or Processes, are Appeals of *Felony*, and so the Author proceeds to the 68 Chapter which was mentioned before. *Bracton* calls Fresh Suit an Appeal, or at least the thing for which it was made.

[8] Lib. 3. c. 23
n. 1. p. 144. a.

Et [8] *Appellans Quasitus si levavit Clamorem & Putefium, & quando venit ad Comitatum cum Appello suo.* And the Appellant was asked if he had levied *Hue and Crie*, and when he came into the County with his Appeal.

[9] Lib. 4. c. 1

Glanvill [9] calls an Appeal an accusation, and the Appelloz and Appellee, *Accusator* and *Accusatus*, and gives a short account of what *Bracton* says in many Chapters, and says that if the *Accused* or *Defendent* be sixty years of Age and upwards, or Maimed, he shall be tried by *Duel*, but shall purge himself *per Dei Iudicium*, by the Judgment of God, *scilicet per Calidum ferrum, vel per aquam, pro Diversitate Conditionis hominum.* That is to say by hot Iron, or Water according to the divers Conditions of Men: *Scilicet per ferrum Calidum si fuerit homo liber, per Aquam si fuerit Rusticus.* That is to say, by hot Iron if he were a Freeman (i. e. a Gentleman, or Man of Value) by Water, (that is by trying whether they would Sink or Swim, as they do *Witches*) if a *Rustic*, *Villain*, or ordinary *Country* Man.

[1] Ibid. c. 3.

In an Appeal of Murder brought by the Wife in *Glanvill's* time, the Accused might [1] chuse whether he would stand the proof of the Wife against him, or whether he would purge himself from the Crime objected to him, *per Dei Iudicium*, by the Judgment of God. To the other Appeals, this Author adds an Appeal of *Treason* which was determined by *Duel*, Lib. 14. c. 1.

Appeals in
Normandy and
England how
brought.

In sum, Appeals in *Normandy* and in *England* according to *Glanvill*, *Bracton*, *Britton*, &c. were such *Suits* and *Plaints*, as were

were prosecuted in a strict form of words prescribed to the Plaintiff and Defendant, or Appello^r and Appellee, and which was determined by Law Apparent, that, is Battle or Duel, and sometimes by Ordal; or at least it was such a Suit wherein Law Apparent was allowed, and left to the choice of the Defendant. And Quere, Whether this Law of Appeals be Abrogated, or only Antiquated and Disused?

A Sir Edward Coke [2] says Appellum signifies Accusation, and therefore to Appeal a Man is as much as to Accuse him; and in Ancient Books, he that doth Appeal is called Accusator, and is peculiarly in legal signification, applyed to Appeals of three sorts: First of Wrong to his Ancestors, whose Heir Male he is, and that is only of Death: The second is of Wrong to the Husband, and is by the Wife only, of the Death of her Husband to be prosecuted: The third is of Wrongs done to the Appellants themselves, as Robbery, Rape and Mayhem.

[2] First Inst. f. 287. B.

Several sorts of Appeals.

B In an Appeal of Death, Robbery, Rape, &c. Sir [3] Edward Coke says the King cannot pardon the Defendant; for the Appeal is the Suit of the Party to have Revenge by Death. And the only reason assigned in all the Law-Books why an Appeal is given to the Wife, or next Heir, is Revenge to be taken for the Wrong. But by an Ancient Record the Appeal in Murder seems sometimes to have been brought in Hopes of a Composition, and Pecuniary Satisfaction from the Defendants, which could not have been transacted, nor the Agreement made without the Kings License, lest he should hang up the Murderer after his peace made with the Party. [4] Martinus de London dat Domino Regi sexagaginta sex Marcas duos solidos, & tres Denarios pro Licentia Concordandi de Appello unde Denus Brunus cum Appellabit de Morte Patris sui. And two others gave the same Sum.

[3] Third Inst. f. 237.

[4] Oblat. 1. Johan. M. 2.

Clerus

Clerus & Populus, Clerus & Plebs, Clerus & Vulgus, Incolæ.

The signification of the word *Populus*.

[5] Mat. Westmor. f. 424. n. 30. A. D. 1295. 23 Ed. 1.

[6] Ibidem, f. 30. n. 40. 50. A. D. 1297. 25 Ed. 1.

Plebs were the Lay-Nobility.

[7] Ibidem, f. 429. 430. * Ibid. f. 430. n. 20. In Crastino Translationis beati Thome Martyris civitatis Comitibus, & Baronibus Regni Londini; i. e. 6 Julii A. D. 1297. 25 Ed. 1.

* Mandante Rege suo Constabulario & suo Mareschalo Comitibus Norff. & Hereford. These words immediately follow the other in the Historian, after the word *Londini*.

[8] Ibidem, f. 230. lin. 39.

[9] Ibidem, lin. 57.

Populus in it self signifies neither great nor little People, but only *Laitie*, and therefore as it is used and restrained signifies either the *Lay Plebs*, or the *Lay Magnates*. So *Clerus* sometime signifies the *Bishops*, sometime the *Inferior Clergy*. [5] *Bi duo post festum Apostolorum Petri & Pauli, missi sunt Duo Cardinales à latere Domini Papæ, ut Regna Angliæ & Franciæ inter se, intestinis Odiis adhuc tumescentia pacificando sedarent: Quos in regno Angliæ applicatos excepit Plebs debito honore, accita per Regem apud Westmonasterium primum & optimatum suorum Caterba, Nonis Augusti.* Here the *Plebs* were the *Kings* great and chief Men, that is, his *Lay Earls* and *Barons*, which he had called to *Westminster*, who so honourably received the two *Cardinals*.

The *King* and [6] *Barons* being at some difference about the Observation of *Magna Charta* and the *Charter* of the *Forest*; *Articulos in predictis Chartis Contentos, innovari insuper & observari Rex mandavit, Exigendo pro hac Concessione ab Incolis, octavum Denarium sibi Dari; qui mox Concessus est ei à Plebe, in sua Camera tunc Circumstante; petit etiam à Clero subsidium. Qui Respondit se velle summo Pontifici literas supplicatorias dirigere pro Conferendi Licentia obtinenda.* The *Incolæ* here meant by the *Historian* were the *Incolæ Regni*, such *Inhabitants* as used to pay *Subsidies* and *Aids*, and the *Plebs* here mentioned by the *Historian* were the *Lay-Nobility* that stood about the *King* in his *Chamber*; [7] for upon a *Treaty* of *Peace* with the *Earl* of *Flanders* against the *French King*, he had * summoned the *Earls* and *Barons* to *London*, to advise with them about his going over into *Flanders* with an *Army* to the assistance of the *Earl*, and * demanded of his *Constable*, and his *Marshal* the *Earls* of *Northfolk* and *Hereford*, a *Roll* or *List* of such *Horse* as should accompany him in that *Expedition*: they refuse their service, and desire the *King* to assign some others of his *Family* to execute those *Offices*. He did so, and then treated with the other *Earls* and *Barons* about an *Aid*, who urged him to the *Confirmation* and *Observation* of the *Charters*, which he granted, *Exigendo pro hac Concessione, &c. octavum Denarium, qui mox Concessus est ei à Plebe in sua Camera Existente*; [8] The two great *Earls* absented themselves on purpose, when the *Plebs* granted this *Eighth* of their *Goods*. The *King* gave the *Earls* time to consider, and to reconcile themselves, while he supported with this *Grant*, passed into *Flanders* to the relief of his *Friends* that both needed and expected his *Relief*; and on *Bartholomew Eve*, on the 23 of *August*, he set *Sail* with 500 *Ships*, 1800 *Knights* and *Horse*, and a great *Army* of *Foot*. The [9] very same day the two *Earls* went to *Westminster* to the *Barons* of the *Kings Exchequer*, and prohibited them to levy this eighth *Peny* of the people of *England* by the *Sheriffs*, saying it was granted without their *Knowledge*, without whose assent *Tallage* ought not to be imposed. Many of the *Earls* and *Barons* Contederated with them, and much people favoured them, so as *Edward* the *Kings Son* and his *Vicerent*

gerent in his absence, renewed the great Charter of Liberties and of the Forest, at London, [1] his Father confirming the same at **Sant** on the fifth of the *Ides*, or the ninth of November, A. D. 1297. the 25th of his Reign. And that the Agreement for the Confirmation of the Charters here mentioned was made, and the eighth Penny granted by the *Earls* and *Barons*, and perhaps the *Knights* of Shires; and that they were the *Plebs* which stood about the *King* in his Chamber, is clear from the Writs of Summons of Parliament for two *Knights* in every County, dated September the 15th immediately following, to come and receive the Confirmation of the Charters, and his Letters that the paying of this eighth should not prejudice the *Commons* for the future, and to do further what by his Son and his Council should be ordained.

[1] Ibidem, f. 431. lin. 2.

Rex [2] *Vicecomiti Eborum salutem, quia in Relevationem omnium incolarum & populi Regni nostri pro Octava omnium Bonorum singulorum Laicorum per totum Idem Regnum pro Urgentissima nunc dicti Regni contra Gallicos necessitate levanda Concessimus pro nobis & heredibus nostris confirmare & firmiter teneri facere Magnam chartam de Libertatibus Angliæ & Chartam de Libertatibus Forestæ, &c. Quod sine Dilatione Duos de probioribus et Legatioribus Militibus Comitatus tui eligi et ad Edwardum filium nostrum Carissimum tenentem in Angliā locum nostrum venire facias ita quod sint London in * Octabis Sancti Michaelis prox. futur. &c. Teste Edwardo filio Regis apud Sanctum Paulum London, Decimo quinto die Septembris.* And the Confirmation of the Great Charter bears [3] date October the 12th next following. It is not probable that if the *Commons* had been at the Agreement, and Granting of the eighth Penny in the Kings Chamber, they would have been dismissed, and called again about the same business in so short a time, seeing the Confirmation of the Charters was dispatched in six days, when the Parliament met October the sixth.

[2] Cl. 25 Ed. 1. m. 6. Dorf. See the whole Writ in Appendix Record 3.

* 6th of Oct.

[3] Rot. Stat. Temp. Ed. 1. 2. 3. m. 40.

After the Confirmation of this Charter, and the *Earls* and *Barons* seemed satisfied, [4] *Concessus est Comitibus Novenarius Denarius à Vulgo, a Clero vero Denus, ad Scotozum pertinaciam reprimendam*, who had then invaded *Northumberland*, and harassed the other Northern Countries. Here *Vulgus* is the same with *Populus* & *Plebs*, when they opposed to *Clerus*, or joyned with it as a distinct Body of Men, and *Clerus et Populus*, *Clerus et Plebs*, *Clerus et Vulgus*, are the Clergy and Laity, in the meaning of this Historian, whether the *Earls* and *Barons* alone, or the Temporal *Earls* and *Barons* with the *Commons* were understood by them.

[4] Mat. Westmon. f. 4. 1. n. 10.

Clerus & Vulgus signifie the Clergy and Laity.

Dominica secunda Quadragesima, [4] citatis Magnatibus Regni ad Westmonasterium, fecit Rex recitari, formam pacis Bullatam per Papam Bonifacium, tanquam Arbitrum inter Regem Angliæ et Franciæ Ordinatam, et alias Bullas statum suum tangentes. Cui Assensum præbuit Plebs omnis et Clerus. Quo facto pertierunt Comites, Barones et Prelati ut Magnam Chartam de Libertatibus, &c. Ratificaret. Here 'tis plain *Plebs* signifies Laity, and that the Temporal *Barons* were therein comprehended.

[4] Ibidem, n. 40. 50. A. D. 1298. 26 Ed. 1.

In the morrow after Holy Trinity, in the 34th year of his Reign, King Edward the first made his Son Knight, and [5] *pro hac Militia*

[5] Ibidem, f. 55. lin. 5.

[6] *Inter Communia Brevia de Termino Sancte Trinitatis Anno Regni Regis Ed. 1. 34. penes Remem. Thef. in Scac. See Append. Record 4.*

filiis Regis Concessus est Regi Trigesimus Denarius à Populo et Clero; Mercatores vero Vicesimum Concesserunt. It is evident upon [6] Record who were the **Populus**, or People intended by the Historian in this place, to wit, the **Comites**, **Barones**, *et alii Magnates, necnon Milites Comitatum*: For it appears by that, that they all Treated together, and apart from the Citizens and Burgeses, and gave the King a Thirtieth part of their Goods, who therefore must be the **Populus** here meant. And it also appears by the same Record, that the **Citizens**, **Burgeses**, and **Dominici Regis**, treated apart by themselves, and gave the King a Twentieth part of their Moveables. *Cives quidem ac Burgeses Civitatum ac Burgorum ac ceteri de Dominicis Regis Congregati, et super premissis tractatum habentes. Considerantesq; onera Domino Regi incumbentia ut premittitur, eidem Domino Regi unanimiter Concesserunt ob causas supra dictas, vicesimam partem bonorum suorum Mobilium, &c.* These were those whom the Historian calls **Mercatores**, who gave the King a twentieth part, &c.

[7] *Fitz-Steph. p. 4. Col. 2.*
[8] *Ibidem, p. 7. Col. 1.*

Fitz-Stephen speaking of **Thomas Becket** when he was Chancellor of England under **Henry the Second**, hath these passages, [7] *Cancellarii summus erat in Clero, Militia, et Populo favor.* [8] *Cancellarius erat, Regi, Clero, Militia, et Populo acceptissimus.* The Chancellor was most acceptable to the King, Clergy, Militia, or Military-Men, (which then comprehended all the Nobility, great and small, Earls, Barons, Knights, Esquires and Gentlemen) and the People: In both these places **People** signifies the ordinary Lay-men; and the particularity of its signification, is always known by the words joyned with it, and the true understanding of the Matter wherein the word **Populus** is used, which can never be discovered by the meer sound of it.

Communitas

*Communitas Regni, Tota Terræ Communitas, Regni
totius Communitas, Universitas Regni.*

A **T**HE *Communitas Terræ, &c.* is and hath been of late years, nay it may be for some Centuries of years, taken for the ordinary People and Freeholders, or at best for Knights and Gentlemen under the Degree of Barons; and as if they were the Community of the Land, and had been always so esteemed: But antiently the *Barons* only, and *Tenents in Capite*, or Military Men, were the Community of the Kingdom, and those only meant, taken, and reputed as such in our most Ancient Historians and Records.

*Communitas
Terræ not the
ordinary Peo-
ple.*

B Hugo [9] *Bigotus, Capitalis Justitiarius Angliæ, Associatis sibi Rogero de Turkebi, & Gilberto de Preston, Cæpit per Angliam Circuire, à Comitatu in Comitatum, & à Libertate in Libertatem omnibus pro meritis impensurus Justitiam, qui quidem in Anglicanis Legibus periti in Exercendis Judiciis Justissimis, præ omnibus aliis à Communitate Terræ, ad hoc Deputantur Idonei.* These Itinerant Justices were chosen by the Community of the Land, which Community could be no other than the Barons: for at this time they, according to the *Oxford Provisions*, did chuse the Justices, Chancellor, Treasurer, and all other Ministers and Officers, both Military and Civil, and had by themselves and Friends the Custody of all the Kings Castles.

[9] *Mat. West-
min. f. 367. n.
10. 20. A. D.
1259. 43 H. 3.*

C Richard de Gray Constable of Dover, [1] *Custos Portuum ab Universitas Terræ Constitutus*; The Barons the year before, viz. A. D. 1258. 42 of Henry the Third, had made him Governour of Dover Castle, not long after the *Provisions* made at Oxford, and he was by them constituted Warden of the *Cinque Ports*, who in this place are called the *Universitas Terræ*; Castellanus de [2] Dover, Richard de Gray *vir fidelis & strenuus, qui ex parte Baronum ibidem Constituebatur, &c.* In both these places no other Persons than the Barons can be understood, by the *Communitas Terræ*, and *Universitas Terræ*, who according to the *Oxford Provisions* made A. D. 1258. named all the Officers in the Kingdom.

[1] *Ibid. f. 69.
n. 30. A. D.
1259. 43 H. 3.*

[2] *Mat. Paris,
f. 273. n. 40.*

E In the Reign of Richard the First, *Mat. Paris* [3] speaking of Earl John the Kings Brother, his calling together the two Archbishops, all the Bishops, Earls and Barons, about Deposing William Bishop of Ely the Chancellor, he delivereth himself in these words, *Comes cum Archiepiscopis, Episcopis, Comitibus, & Baronibus in Capitulo sancti Pauli Convenerunt, &c. ubi assensu Communium diffinitum est, &c.*

[3] *E. 166. n. 30*

F Anno Regni Regis Henrici tertii 42 [4] *Dronia Ordinatum fuit, ut quia idem Regnum Reformatione multiplici sui status Egebat, dictus Rex pro se 12 personas de Regno, & Tota Terræ Communitas alios 12 providerent, quia Regia potestate suffulti totius Regni curam susciperent, & de Justiciariis, Cancellariis, Thesaurariis, & cæteris Officialibus, ac ministris Eligendis, ab Anno in Annum in perpetuum providerent, ejus Castra per se & suos facerent Custodiri.* And upon Record it appears, that this *Tota Terræ Communitas* was the Barons, or the *Procures & Magnates*, which were the same.

[4] *Mat. West-
min. f. 391.
lin. 2. &c.*

*Tota Terræ
Communitas
were the Ba-
rons Procures
& Magnates.*

[5] Pat. 42
Hen. 3. m. 10.
pro Rege &
Baronagio Angl.

Rex omnibus, &c. [5] Noveritis nos Concessisse Proceribus & Magnatibus Regni nostri Juramento in Animam meam per Robertum Maresrand prestitum, quod per 12 fideles de Consilio nostro jam electos, & per alios 12 fideles nostros electos ex parte procerum ipsorum qui apud Oxon. à festo Pentecost. prox. futur. in unum mensem convenient. Ordinetur, Redificetur, & Reformatur status Regni nostri, &c. dat. apud Westmon. 2 die Maii. First in this Record, as in the Margin, we see it was pro Rege & Baronagio, for the King and the Baronage. Secondly, we see to whom the King made the Grant, That he would 12 Persons, &c. that is, to Proceres & Magnates Regni, to the great Men of the Kingdom. Thirdly, we see to whom the King consented, that they should chuse other 12, by which 24 the Kingdom was to be reformed; and they were the Ipsi Proceres, the very same great Men first mentioned. Lastly, we see that the Record, and what the Historian delivers, was about the Business and very Matter; so that there can be no doubts but the *Tota Terræ Communitas* in the Historian, and the *Baronagium* or *Proceres & Magnates Regni* in the Record, were the same Persons.

Note, That Easter-Day, A. D. 1258. 42 of Henry the Third, was on the 24th of March, and Whitsunday on the 12th of May; so that Barnaby-day that year upon which the Barons met at Oxford, and made those Provisions called Oxford Provisions, was just a month after Whitsun-Tuesday, and agrees for time with this Record.

Sometimes all Tenents in Capite under great Barons were called Community of the Kingdom.

Sometimes the Comites, & Barones Majores alone, such as were Earls, and great Barons, are called the Baronage of England, and by way of eminency, Proceres & Magnates; but most frequently these, with all other Tenents in Capite, did make the whole Body of the Kings immediate Tenents in Military Service, and were all together called the Baronage of England, the Community of the Land, or Community of the Kingdom: Yet many times the Earls and great Barons are distinguished in our Ancient Historians and Records from the less Barons or Tenents in Capite; and these last in contra-distinction to, and in respect of the first are called the Community of the Kingdom, or Nation. So in King Johns Magna Charta, the Earls and great Barons were to be summoned to great Councils, or Parliaments by particular Writs, that is, every one had a particular Writ of Summons sent to him; and the other Tenents in Capite were all summoned by one general Writ, and by the Sheriff of every County, to whom that general Writ was directed, and sometimes the greatest and most considerable of these were called Proceres & Magnates.

[6] Pat. 48
Hen. 3. m. 2.
Dorl. n. 14.

In the 48 of Henry the Third, when Montfort had the King under his power, [6] the Greivances of Holy Church of England were to be considered, and the Injuries done to her in the time of the Troubles redressed; and three Bishops were to be chosen, per comun assentment du Roy & des Prelats, des Countes, & des Barons de la Tere, by the common assent of the Prelates, Earls and Barons of the Land. To whom soit done plein poer du Roy, e de la Comunante des Contes, & des Barons, & des Graunz homes de la Tere, should be given full Power from the King and the Community of the Earls, and Barons and of the great Men of the Land, to provide and order things necessary and profitable

A fitable for the full Reformation of the State of Holy Church, to the Honour of God, and the Faith of the Lord the King, and the profit of the Realm. *E ceo soit prems en bon foi, par le Roy, & par les Contes, e les Avandits Barons, & par les autres Graunz Homes de la Tere.* And so it was determined in good faith by the King, and by the Earls and the foresaid Barons, and the other great Men of the Land: The other great Men of the Land were great *Tenents in Capite*, that were actually neither *Earls* nor *Barons*, and these altogether are here esteemed part of the Community of the Land, as well as they are called the *Earls*, *Barons*, and great Men of the same, and by putting the chief part of the *Tenents in Capite* for the whole, are oftentimes called the Community of the Land or Kingdom.

B In a [7] form of Peace, reciting an Ordinance made in a Parlement at London about Midsummer in the 48 of Henry the Third, it is said thus, * *Hæc est forma pacis à Domino Rege, & Domino Edwardo filio suo Prelatis & proceribus omnibus cum Communitate tota Regni Angliæ Communiter & concorditer approbata, Videlicet, quod quedam ordinatio facta in Parlamento London habito circa festum Nativitatis Johannis Baptiste proximo præterito, pro pace Regni conservanda, &c.* which form concludes thus, *Actum in Parlamento London, mense Junii A. D. 1264.* which was the 48 of Henry the Third.

[7] Rot. Pat.
48 Hen. 3.
m. 6. Dorl.

* Vide Record
5.

C This form and Ordinance here said to be unanimously approved by all the *Prelates* and *great Men*, with the whole Community of England. (that is, Bonfort and his Faction with such Trimmers as complied with them) was made by them; For most certainly the King would never cause such an Ordinance or form of Peace to be made and propounded to them as would un-King himself; the sum whereof was that three Men should be *nominated* or *chosen*, who should have Power and Authority from the King, to *chuse* or *name* *Nine Counsellors*, of which three should always be with the King, and he by their Advice should Order and Dispose of the Government of his Castles and Forts, and all other Business of the Kingdom; and also by their Advice should chuse his Judges, Chancellor, Treasurer, and other Officers great and small, either of the Court or Kingdom, and when any of these nine were to be removed, and others chosen, it was to be done by the Advice of the first three *Electors*, & *si videatur Communitati Prelatorum & Baronum Concorditer Expedire, &c.*

D And if it should seem Expedient to the Community of Prelates and Barons, to have all or one of the three first nominated or Elected removed, and others put in their places, *Dominus Rex per Consilium Communitatis Prelatorum & Baronum alium vel alios substituat.* The King was to substitute another or others, by the Counsel of the Community of the Prelates and Barons.

Here Community refers only to Prelates and Barons.

F Mathew [8] of Westminster makes it more plain what the *Tota Communitas Regni*, the whole Community of the Kingdom was that made this Ordinance, *Convenientibus Londini Prelatis, Comitibus, Baronibus, partis illius, qui Regem suum tam seditiosè tenuit Captivatum, Compromissi Lewensis, &c.* Statuentes quod duo Comites & unus Episcopus (which were the Earls of Leicester and Gloucester, and Bishop of Chichester) *ex parte ipsius Communitatis Electi, novem personas eligerent, &c.* The Prelates, Earls and Barons of that Party that seditiously

[8] F. 394.
lin. 3.

seditionously kept the King Prisoner, met at *London*, and unmindful of the *Compromise* at *Lewis*, determined that two *Earls* and one *Bishop* to be chosen on behalf of, or by that *Community*, should chuse *Rine*, &c. We see here the *Tota Communitas Regni Anglie*, in the preamble to the Ordinance upon Record, was the same with the *Community* in the *Historian*, and they were the *Community* of *Prelates*, *Earls* and *Barons*, &c.

The Battle of *Lewis* where the King was taken prisoner, was fought *May 19th 1264*. in the 48 year of *Henry the Third*, and this Ordinance was made at *London* in *June* following after *Midsummer* day, as a short Draught of an Agreement, or form of peace, as they called their own Impositions upon the King, until a larger was drawn up, finished and Ratified; which large form of Peace, is Dated the Day before the *Vigil* of *St. Gregory*, that is on the 10th of *March* following, in which the Ordinance and form of Peace above mentioned is confirmed, and recited *verbatim*, except the preamble, and bears the Title of *Forma Pacis inter Regem & Barones* in the Margin of the Roll. *Le ordenem. nt qe fu purveu à [9] Londre par Comun accord des Prelats & des Hauz Hommes de la Tere, qe la furent en mois de Jun lan nostre Seignor le Rois XL utime soit fermement Garde e maintenu en form qe il estoit purveu, qe est icele.* By this Record it appears that the *Tota Communitas Regni Anglie*, the whole *Community* of the Kingdom of *England*, by whole common accord the Ordinance was made at *London* in the Month of *June* preceding, in the 48 year of *Henry the Third*, were the *Prelates*, and the *Hauz Hommes*, that is, the great Men of the Land, or Men of High Condition. Hitherto the *Prelates*, *Earls*, and *Barons*, or the *Prelates*, and *Great Men*, or the *Prelates*, and *Hauz Hommes*, Men of High Condition by Record and History, have appeared to be the *Community* of the Kingdom.

In the first Paragraph of this Record, after the Recital of the Ordinance made at *London*, &c. *E qe cest Ordonement soit Mieux Garde, nostre Seignor le Roi, doit comander e enjoindre, e Monsieur Edward assentir e Requere as Hauz Hommes, e au Comun de la tere, par lur Lettres Overtes qe demorrent in Chescun Conte qe cest Ordonement fermement tenguent.* And that this Ordinance may the better be observed, our Lord the King shall command and enjoyn, and *Monsieur Edward* Assent and Require, the Great Men, (that is, the *Bishops*, *Earls*, and *Barons*) and the *Commons* of the Land, by their *Letters Patents*, which are to remain in every County, that they firmly keep this Ordinance. In one of these *Letters Patents*, or *Charts*, sent into *Worshshire*, it is evident, that the *Prelates*, *Earls*, *Barons*, and *Community* of the Kingdom, and the *Prelates*, *Earls*, and *Barons*, without those words, *the Community of the Kingdom*, signified the same thing, or that the *Community* of the Kingdom signified very little, if any thing, as to the Transacting of Publick Affairs in those days.

Rex [1] *omnibus de Comitatu Eborum salutem. Cum propter hostilem Turbationem habitam in Regno nostro de unanimi assensu & voluntate nostra & Edwardi filii nostri Primogeniti, Prelatorum, Comitum, Baronum, & Communitatis Regni nostri, pro Regni ipsius pace, pro cuius securitate dictus Edwardus, & Henricus filius Regis Alemaniæ Nepos noster obsides dati fuerunt concorditer sit provisum quod quedam Ordinatio*

[9] Rot. Cart.
49 Hen. 3. m. 5.
In Append.
Record. 6.

[1] Rot. Cart.
49 Hen. 3. m. 4.

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tio de unanimi assensu nostro; Prælatorum, Comitum & Baronum Prædictorum super nostro & Regni nostri statu. London mense Junii Anno Regni nostri 48^o facta inviolabiliter observetur. Here the Prælati, Comites, & Barones prædicti, must be the same with the Prælati, Comites, Barones, & Communitas Regni, immediately preceding, or the Communitas Regni, had nothing to do in making the Ordinance at London in the Month of June concerning the State of the Kingdom, and yet in the preamble of it 'tis said they had.

A

A little further in the same Record 'tis said, The King and his Son Edward swore, and the great Men, and the Commons of the Land by the Kings Command, and the assent and request of his Son, swore to do and keep these as aforesaid. *E nostre Seigneur le Roi e Monsieur Edward unt Jure sur les seintes Evangelis, e les Hauz Hommes, e le Commun de la tere Jurront par Comandement nostre Seigneur le Roi, e par l'assentement e la Request Munfir Edward, ices choses à fere e à tenir si c. m il est avantdit:* And then it follows, That if any Man do disturb the Peace of the Nation, or do any thing contrary to this form of peace, or assist the King and his Son in doing any thing contrary to it, &c. Then he and his Heirs, shall be for ever disinherited as if they were convicted of Felony; and the next words in this same Record are *e ceste Chose est fermement Establi par le Roi & Munfir Edward, e par le * Commun de la Tere.* And this was firmly established by the King and Monsieur

B

Edward, and by the Commons of the Land. Here 'tis said that the King, his Son Edward, and the Commons of the Land only made this Establishment. Can any Man think that the Prelates, Earls, and Barons were not present and consenting to the making of this part of the form of peace? 'Tis said in the [2] Charters or Letters Patents directed to the County of Middlesex for the Observation of both by King Henry and Prince Edward his Son, that *De unanimi nostro assensu, Edwardi filii nostri, Comitum, Baronum, & Communis Regni provisum & Statutum est, &c. & quod ipse, & heredes sui in perpetuum Exheredentur, & de Terris & Tenementis eorum fiat, prout de Terris eorum qui pro Felonia Convicti sunt.* So we see that in this part of the Record, *Commun de la Tere*, or Community of the Land comprehended the Prelates, Earls, and Barons, and in other parts of it, the Prelates, Earls, and Barons, were mentioned as the Community of the Land.

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It follows in the same form of peace between the King and Barons. *E les Articles qe estoient despecs porvenues par Accord nostre Seigneur le Roi e dez * Hauz Hommes de la Tere les queus nostre Seigneur le Roi, nadgeres quant il estoit à Worcester envoia par toz les Contees de souz son seel sont fermement tenuz, &c.* And that the * Articles made by Accord of the King and the Hauz Hommes of the Land, the which the King when he was lately at Worcester, sent into all the Counties under his Seal that they might be firmly observed. The Hauz Hommes here mentioned are rendred in Latin *Magnates* in the fore-cited Letters Patents of both father and son for the observation of this form of peace. *Et omnes Articuli de nostro & Magnatum terra nostre Communi assensu dudum provisum quos nuper apud [3] Wigorniam Existentes per singulos Comitatus sub sigillo nostro transmissimus inviolabiliter observentur.*

F

* In this place Community of the Land signifies the Bishops, Earls, Barons and great Men, or these establishments were made without them, which is a contradiction to both these Records. [2] Rot. Cart. 49 Hen. 3. Community of the Land comprehended Prelates, Earls and Barons.

* Hauz Hommes the same with Magnates.

* These Articles were dated at Worcester, Dec. 13. A. D. 1264. 49 of Hen. 3. and do contain a great part of the Law of England, as it then was. [3] Rot. Cart. 49 Hen. 3. m. 4.

Again

Again, it was agreed in the same form of Peace, that the King, nor his Son Edward should bring any strangers into the Nation, without the assent of the Kings Council, or other discreet and knowing Men of the Land. *Derechef qe nostre Seignor le Roi ne Munsr Edward ne atreent mie Genz aliens en la Tere si ce ne soit par Accord du Conseil le Roi e des autres Prodes Hommes de la Tere.* The Prodes Hommes must be the same with discreet and knowing Fideles or Magnates, and they were for rank, degree, and order, such as were of the Kings Council, (and not ordinary Men) for 'tis here said with relation to them, *E des Autres Prodes Hommes de la Tere*, and other Prodes Hommes of the land. And the Kings Council here meant, were Nine of the greatest Persons which were most fixed and resolute in the Rebellion of Montfort and his Confederates, and were chosen by three such as themselves, as is clear beyond all Cavil, from the expresse words of the form of Peace made in the month of June at London, in the 48 year of Henry the Third, A. D. 1264. here recited in this French Record. *Ad Reformationem Status Regni Eligantur seu nominentur tres Discreti viri & Fideles de Regno qui habeant potestatem & auctoritatem à Domino Rege Eligendi seu Nominandi vice Domini Regis Consiliarios Nobis, &c.* These Tres Discreti et Fideles, three discreet and well affected, (who were Montfort, the Earl of Gloucester, and the Bishop of Exeter, three of the prime Rebels at that time) do answer exactly to the Prodes Hommes in this French Record, which being a corruption of the French *preuds Hommes*, signifying Valiant, Hardy, Courageous, Faithful, Discreet Men, for so did Montforts Party and Faction call themselves, as our late Mescreants called themselves the Sober Godly Party, and the Well-affected.

Here is enough said to satisfy any reasonable Man, what the Community of the Kingdom was, and that the Pauz Hommes, and Prodes Hommes, often found in our old French Records, were at least part of, if not the same with that Community. But to put the matter beyond all doubt and Exception, I will Confirm what I have said about the Community of the Kingdom by other plain Records.

[4] See the whole Record in the Answer to Mr. Petyt, f. 149. A. De intendendo Collection, Auxilii.

The [4] first is Pat. 30. Edward 1. M. 1. *Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus & omnibus aliis de Comitatu Cantuarum salutem, Sciatis quod cum primo die Junii Anno Regni nostri Decimo Octavo, Prelati, Comites, Barones & Ceteri Magnates de Regno nostro concorditer pro se & Tota Communitate ejusdem Regni in pleno Parlamento nostro nobis Concesserint, Quadringenta Solidos de Singulis feodis Militum in Dicto Regno in Auxilium ad primogenitam filiam nostram Maritandam, &c. Cujus quidem Auxilii levationi faciendæ pro Dicta Communitatis assensu hucusque supersedimus gratiosè, &c.* The King to Archbishops, Bishops, Earls, Barons, Knights, and all others of the County of Kent, Greeting. Know ye, That on the first day of June, in the 18 year of our Reign, the Prelates, Earls, Barons, and the rest of the great Men of our Kingdom, by one Assent for themselves, and the whole Community of the same Kingdom, granted to us Forty shillings of every Knights Fee in the said Kingdom for an Aid to Marry our Eldest Daughter, &c. which Aid we have hitherto graciously forbore to Levy for the Ease of the said Community, &c. By this Record it is very clear, that such as paid Scutage, that is, Forty Shillings for a Knights Fee, were the Tota Regni Communitas

The Tota Regni Communitas paid Scutage.

Communitas, and no others: And of these the *Tenents in Capite* granted and paid it first for themselves and Tenents, and then their Tenents in Military Service, by virtue of the Kings Precept paid it to them for so many Fees as they held of them, as hath been sufficiently evinced by Record in the *Answer to Mr. Petyt*, f. 121. B. C. D. &c.

A The [5] second is a Record in the *Exchequer*, by which it appears that the King summoned a *Parliament* in the 34th year of his Reign, to meet in the Morrow of the *Holy Trinity*, about an Aid for making his Son Knight, and assistance against *Robert Bruce*, who had raised forces against him in *Scotland*. And the *Prelates*, *Earls*, *Barons*, and other great Men, as also the [*] *Knights of Shires* treating together with deliberation upon this Matter, considering the Aid was due, and the Burthen that lay upon the King by reason of the Scotch War, at length they unanimously *Domini Regi concesserunt pro se & Tota Communitate Regni tricesimam partem omnium Bonorum suorum Temporalium Mobilium*, for making his Son Knight, and toward the Expences of his War in *Scotland*. And then *Cives & Burgenses Civitatum ac Burgorum ac ceteri de Dominicis Regis Congregati*; and treating about the Premises, considering the Burthens lying upon the King, (not mentioning any Aid for making his Son Knight, as not holding of the King by *Knights Fee* or Service, and therefore none of the Community of the Kingdom, nor liable to it) *eidem Domino Regi unanimiter ob causas supra dictas vicefimam partem bonorum suorum Mobilium*; Granted to the King the Twentieth part of their Moveables. Here the *Prelates*, *Earls*, *Barons*, and Great Men, with the *Knights of Shires*, Consulted together, and gave for themselves, and the Community of the Kingdom, a Thirtieth part of their Goods; and the *Citizens*, *Burgesses* and *Tenents* of the Kings Demeasns, which were none of the Community of the Kingdom, gave a [*] Twentieth part: For if they had been of the Community, they had paid no more than a Thirtieth part, that is, a third less than a Twentieth. And therefore 'tis most certain at this time they were not taken to be part of the Community of the Kingdom, unless they paid both a Twentieth and Thirtieth part of their Goods; and that the *Tenents in Capite*, *Serjeants*, or at least the *Military Men*, and *Tenents in Military Service*, were only such.

[5] See it here in the Append. Record 4.

D And [6] this is confirmed by another Record of the 35th of this King, for the Collecting of this Thirtieth and Twentieth part: *Rex Militibus, liberis Hominibus, & Toti Communitati Comitatus Middlesex tam infra libertates quam extra, salutem: Cum Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, Milites, Liberi homines, ac Communitates Comitatum Regni nostri Tricesimam omnium Bonorum suorum temporalium Mobilium, Civesque, & Burgenses, ac Communitates omnium Civitatum, & Burgorum ejusdem Regni, necnon Tenentes de Dominicis nostris Vicefimam Bonorum suorum Mobilium, &c. Curialiter Concesserint et gratanter, &c.*

[6] See Append. Record 7

F [*] The only reason why the *Knights of Shires* treated together with the *Bishops*, *Abbats*, *Priors*, *Earls*, *Barons* and great Men apart from the *Citizens* and *Burgesses* in granting Taxes, was because they all were of the same Order, that is, *Tenents in Capite*, though not of the same Degree, viz. all *Earls* and great *Barons* or great Men, that is, the greatest of those Men that were not great *Barons*, or the greatest of the *Barones Minores*, the lesser *Barons*.
[*] It was usual in those times for the *Citizens* and *Burgesses* to grant a third part more than the *Earls*, *Barons*, and *Knights of Shires*: probably the reason might be, because they performed not Military Service, nor paid Scutage.

E

It's

It's said in this Record the *Archbishops, Bishops, Earls, Barons, Abbats, Priors, Knights and Freeman*, and *Communitie*s of *Counties*, gave a Thirtieth part of their Goods, as if they were all Members, and late in this *Parliament*: And so it is said of the *Cities and Burghs*, that the *Citizens, Burgeses*, and the *Communities* of the *Cities and Burghs*, gave a Twentieth part of their Moveables as if they had been all there. But these words signifie no more, than that the *Knights and Freeman* gave by their *Representatives*, and that the *Communities* of *Counties*, and the *Citizens and Burgeses*, and *Communities* of *Cities and Burghs* gave by their *Representatives*, as is most clear from the Writ of Expences for the *Knights of Lincolnshire*, [7] *Rex Vicecom. Lincoln salutem. Precipimus tibi quod de Communitate Comitatus tui tam infra Libertates quam extra habere facias dilectis & fidelibus nostris Johanni de Rebill & Ranulpho de Friskney Militibus ejusdem Comitatus nup. r ad nos pro Communitate predicta usque Westminster de Mandato nostro venientibus ibidem, nobiscum super quibusdam negotiis nos & Statum Regni nostri specialiter tangentibus tractaturis Rationabiles Expensas suas in veniendo ad nos, ibidem morando & exinde ad propria redeundo, prout alias in casu Consimili fieri consuevit. Teste Rege apud Westmon. Tricesimo die Maii.* The 30th of May was this year 1306. *Cras Trinitatis*, Easter-Day being April the third. This Parliament was summoned to meet [8] *Cras Trinitatis*, on the Morrow after Trinity, so as they dispatched the Business they met for in less than one day; and besides the Date of the Writ for Expences that proves it, *Barth. Westminster* says all the Military Men took their leaves of the King that day, and promised to be with him in Scotland fifteen days after St. John Baptist, [9] *Exinde omnes salutato Rege, in Crastino Trinitatis a Westmonasterio recesserunt, ad Regem in Quindena Sancti Johannis Baptiste in Scotiam affuturi.*

[7] Clauf. 34
Ed. 1. m. 11.
Dorl.

[8] See the
Writ of Sum-
mons, Cl. 34
Ed. 1. m. 15.
in Cedula.

[9] F. 455.
lin. 3.

[1] Clauf. 1
Ed. 2. m. 10.
Dorl.

At his Coronation Edward the Second was asked this Question; [1] *Sire, Grante vous à tenir & Garder les Leyes & les Customes Droitures les quieles la Comu aute de Vostre Roiaume aura Esu', & les Defendres, & afforcerez al honneur de Dieu à vostre poer?*

He answered upon Oath, *Jeo les Graunte, & Promette.*

In this Roll is set down the whole manner of Edward the Second's Coronation: The three great Earls, Thomas of Lancaster, Guy of Warwick, and Henry Laty of Lincoln, who were very popular, pretending to do wonderful things for the Liberty and Freedom of the Laity, carried three Swords before him, and Thomas of Lancaster the Sword called *Currana*, &c. And it follows in the close of all, *Ita fuerunt verba Regis in Coronatione predicta, sub Juramento prestito ut patet in Cedula annexa*; so were the Kings words at his Coronation under Oath, (never in the same form and words given to any King before, nor perhaps ever since.) The first thing asked him was, *Sire, volez vous Granter & Garder & per vostre Serment Confermer au Peuple de Angleterre, les Leyes & les Customes a eux grantees par les auciens Rois d'Angleterre, vous Predecessors Droitures D. votz à Dieu, & nomement les Loys, les Customes, & les Franchises Graunte au Clergie & au Peuple par le glorieux Roi Edward vostre Predecessor?* Sir, Will you grant and keep, and by your Oath confirm to the People of England, the Laws and Customs granted to them by the Ancient Kings of England your Predecessors, true and devout to God, and namely the Laws, and Customs and Franchises granted to the Clergy and People by the Glorious King Edward your Predecessor.

Respons.

Responf. Jeo les Grant & Promette. I Grant and Promise.
sire, Garderez vous à Dieu & Saint Eglise, & au Clergie & au
People pacs & accord en Dieu entirement solonc vostre poer? Sir,
 will you keep to God and Holy Church, and to the Clergy and
People Peace and Accord in God intirely according to your power?
Responf. Jeo les Garderai. I will keep them.

A *sire, Freez (or perhaps rather) feres vous fair en touz voz Juge-*
ments ove le Droit, Justice, & discretion en misericorde & verite à vo-
stre poer? Sir, Will you suffer all your Judgments to be done with
 Right, Justice, and Discretion, in Mercy and Truth to your power?
Responf. Jeo le Frai, I will do it.

B The last question put to him, was, that which I first mentioned,
 and is thus truly Rendred in English. Sir, Do you Grant to hold the
 just Laws and Customs which the Community of your Kingdom
 shall have chosen, (the words *aura Esu* cannot fairly be otherwise
 translated) and them defend, and inforce, to the Honour of God ac-
 cording to your power?
 Answer. I Grant and Promise.

C The Community here intended, was the Community of Bishops,
 Abbats, Priors, Earls, Barons, great Men, and the whole Body of
 the Tenents in Capite, expressed by those words in the former Questions
 Clergy and People. For by them these Demands were made, and no
 doubt but they would first for themselves; for the *Tulgus*, Multitude
 or Rabble, could not come near to make their Demands at such a So-
 lemnity as this was, so great and splendid; there being at it [2]
 Charles, and Lewis Earl of Clermont, two of the King of France
 his Brothers, the Duke of Brabant, the Earl of Ferg, and the
 other great Men both of France and England, with the Countess
 of Artois.

[2] Walsingh.
 f. 95. n. 20.

D And that the *Comunaute de Roiaume*, the Community of the
 Kingdom, did still continue to be such persons as above mentioned, is
 clearly proved by this Record. *Rex [3] dilectis & fidelibus suis*
Vicecomiti Wygoznie Thome Botiller de Upton super Sabrinam Militi,
& Thome Calky de Wych, salutem. Sciatis quod cum in pleno Parlia-
mento nostro apud Westmonasterium ad Diem Lune proximo post fe-
stum Nativitatis Beate Marie virginis proximo preteritum tento, Prela-
ti, Comites, Barones, & Ceteri Digniores de Regno nostro An-
glie, &c. pro se, & Tota Communitate ejusdem Regni nobis Con-
cesserint quadraginta solidos de singulis feodis Militum in Dicto
Regno Anglie, &c. The whole Community of England in this Re-
 cord were * Military Men, such as held Knights Fees, or parts of
 Knights Fees, and such as paid Scutage, and they were neither the
 Ordinary Freeman, or Freeholders, nor the Multitude, nor Rabble.
 E Though the words *les Leyes & les Customes, les queles la Comunaute*
aura Esu, have been very ignorantly rendred, *Leges & Consuetudines*
quas Tulgus Elegerit, to the great Confusion and Mischief of this Na-
 tion in the beginning of the late Troubles, as they were made use of
 and interpreted by malicious, ignorant, and desperate Men, as will be
 shewn in the discovery of the meaning of the next words.

[3] Rot. Fin.
 20 Ed. 3. m. 7.
 See Append.
 Record 8.

* Circa festum
 Sancti Michaelis
 les Hastiludium
 Commissum est
 apud Brakelc
 ubi multi de
 Militibus uni-
 versitatis Reg-
 ni, qui se vo-
 lunt Bachelar-
 ios appellari
 contriti sunt.
 Paris, f. 768.
 n. 50. A. D.
 1249.

Elected, Election, Electus, Electio, Elegerit.

Leges & Consuetudines quas *Vulgus Elegerit*, as *les Leyes & Customs les quies*, la Communauté aura *Estu*, the words in the French Record, cl. 1 Ed. 2. M. 10. are commonly Translated. Mr.

* In his Book of Treachery and Disloyalty, &c.

* *Wyn* and the *popular men* would have *Elegerit* here to be in the future tence, and have it signifie *shall chuse*, and so as to bind the King as he could not refuse such Laws as were offered him by the *Parliament*, (for so he would have *Vulgus* signifie) and by these almost only words to prove the King had no *Negative Voice*. Others say the King was bound before this to ratifie the Laws the people *propounded*, and so they erect and place a *Soveraignty* in the people, which they would have to be the *very Vulgar*. But 'tis impossible Mr. *Pryn's* sense of *Elegerit* can ever be allowed, for the Original words *aura Estu*, can fairly admit of no other Rendering than, *shall have chosen*, that is, such *Laws* and *Customs* as they had already chosen, and for those that would have it in the *Option* of the *Vulgar* to propound Laws to our King which they *Could not Deny* to confirm, they never looked further than these words, nor never understood them. For *aura Estu* here signifies no more then that the *Community* had received such Laws from the *Ancient Kings*, and owned, and submitted to them, and that they were such as they asked, and by way of demand, or rather *Proposals*, requested him to observe and keep; and this meaning of the words doth most naturally arise from the first question by way of Proposal. Sir, Will you Grant and keep, and by your Oath confirm to the people of *England*, the *Laws* and *Customs* Granted by the *Ancient Kings* of *England*, your Predecessors, just and devout to God, and namely the *Laws* and *Customs* and the *Franchises* Granted to the *Clergy* and people by the glorious King *Edward* your Predecessor? 'Tis plain from these words that they do acknowledge to have had and received, their *Laws*, *Customs*, and *Franchises* from the *Kings* of *England*; and the words *aura Estu* signifie no more, than that the King would hold, keep and defend such *Laws* and *Customs* as the *Community* of the Realm, had *chosen*, that is, *owned*, *submitted* unto, and *Desired* still to use. And whatever practices by use time out of mind, have grown into *Customs*, for the better management of affairs, and conveniency between Man and Man, (for that's the foundation of all *Customs*) all the Nation over; or in any particular *County*, *Hundred*, *Town*, *City* or *Burgh*, without intrenchment upon the Government, have by permission or sufferance become *Laws*, it is nothing to the purpose of our present matter, as having never been presented to the King; for had they been so, and received his *Fiat*, they had been *Laws*, by his *Concession*, and no *Customs*.

Election only a submission or acknowledgment.

[4] Gervas. in Act. Pont. Cantuar. Col. 1653. lin. 7.

[5] Order. vit. f. 519. A.

Lanfrancus [4] *Ecclesiam Cantuariensem suscepit regendam, Eligentibus eum senioribus ejusdem Ecclesie cum Episcopis & Principibus, Clero & populo Angliæ in curia Regis in Assumptione sanctæ Mariæ; Cathedra Cantuariensis, [5] Lanfranco Cadomensium Abbati decreta est, Regis & omnium optimatum benevola Electione.* As to the Seniors of the Church *choosing* *Lanfranc*, they did by order and direction from *William*

- William the Conqueror, and their proceeding no other than it is now by the Chapter of other Churches upon a *Conge d'Esire*, they could not refuse him. And for the Bishops and Noblemen choosing him, they only owned and submitted to him, or liked him, and were satisfied with the person. And that it was so, we have these Authorities, Florence of Worcester [6] says, *Rex de Normannia accito Lanfranco Cadomensis Abbate, Die Assumptionis sancte Mariæ Arch. episcopum constituit Cantuariensis Ecclesiæ, & in festo sancti Johannis Baptiste Consecrari fecit Cantuariæ.* The King called Lanfranc Abbat of Caen out of Normandy, appointed him to be Archbishop of Canterbury, and made him be consecrated on the Feast of St. John Baptist. The same words hath Simon of Durham, Col. 202. n. 50. and Howden. f. 260. a. n. 10. and Ralph de Diceto, Col. 483. n. 10. also John Brompton, Col. 968. n. 40. Halmsbury to the same effect, [7] *A Willielmo Rege Lanfrancus Cadomensis Abbas ad Archiepiscopatum Eleus est*, notwithstanding he had no Competitors. *Electus est* signifies no more here than that King William appointed and ordered he should be Archbishop of Canterbury.

[6] F. 636. 637

[7] D. Gest. Pontif. f. 116. b. n. 30.

- Concerning Anselm, Serbale of Canterbury [8] says, *Anselmus Abbas Beccensis qui tunc in Anglia Ordini Beccensi subditas visitabat Ecclesias Eleus est nonis Martii, &c. In pastorem Ecclesiæ Cantuariensis Ecclesiæ, &c. Anselm Abbat of Bec being in England to visit the Churches belonging to that Monastery, was chosen Archbishop of Canterbury on the 7th of March, &c. Cadmer from fol. 16. n. 40. to f. 21. and Halmsbury de Gest. Pontif. f. 124. a. b. both tell the manner of his being made Archbishop, and say it was by the King alone; but the Bishops pressing him to accept that Office, and the people shouting he is there said to be *Electus*. *Rex Gulielmus junior dedit Anselmo Dorobernensem Archiepiscopatum*, so Florence of Worcester, f. 645. A. D. 1093. Simon of Durham hath the same words, Col. 218. lin. 5. *Rex Willielmus Anselmo Beccensi Abbati Dorobernensem Archiepiscopatum concessit.* So Ralph de Diceto, Col. 491. n. 10. *Rex Willielmus Anno Regni sui quinto Archiepiscopatum Cantuariensem sancto Anselmo Beccensi Abbati venerabili viro dedit*, Col. 987. n. 50. *Rex Willielmus junior dedit Archiepiscopatum Cantuariensem Anselmo Abbati Beccensi viro venerabili.* Mat. Paris, f. 17. n. 20.*

[8] Act. Pontif. Col. 1656. n. 10.

- William the Treasurer of the Church of York was chosen Arch-Bishop, by the major part of the Chapter, the Arch-Deacon of the Church Henry Burdat makes a faction amongst the Clerics and Canons the Electors, and hindered Williams Consecration. *Archilevita Discidium inter Eligentes excitavit ipsum Willielmum à saniori parte Eleum impediens, licet de ejus Electione Clerus & Populus acclamassent laudum præconia*, Brompt. Col. 1029. n. 10. The Pope set aside this William upon an Appeal, and Consecrates Hen. Burdat, after whose Death William was chosen again; and there being a great Crowd of People at his Election, they brake down the Wooden Bridge over the River Ouse. *Quod cum Audisset sanctissimus Pater Willielmus fusa cum lachrymis Oratione ad Dominum, ne pro eo Deum laudantes profundum obsorberet, submersos signo Crucis signavit & mox Orationis sue virtute universos à periculo Mortis succurrente Divina pietate liberavit.* Thom. Stubs Act. Pontif. Eborac. Col. 1722. n. 20. 'Tis frequently said

said in old Historians, That *Bishops, Archbishops* especially, were chosen by the *Clergy and People*, though they did nothing more than hollow and shout, or perhaps sing *Te Deum laudamus* when the Election was declared : And there will never want Company to make a noise, where there is plenty of good Drink and Victuals, as there always was at these times.

The old Monks said every one was *Elected* that had not an *Hereditary Title* ; and though he was set up by the *Art or Violence* of a Faction, or obtained the Crown by *Force and Arms* without Title, [*] yet according to them he was *Elected*, when as the *People* only received and submitted unto them, when they could not help it, and it may be because there was much shouting, and many Acclamations at his Reception. *Anno Domini 1607. Dux Normanniae Willielmus Civitatem Londoniæ ingressus cum magno Gaudio à Clero & Populo susceptus, & ab hominibus Rex acclamatus, & in die natali Domini in Regem est Coronatus, Lib. Prioratus de Spalding, f. 29. b.* See the Stories of *King Harold, Hen. I. and King Stephen* in the History of the Succession, how they obtained the Crown by Fraud and Violence, and yet by several old Monks they are said to be *Elected* for the Reasons just now mentioned.

And for the same Reasons they said some of our Kings that had undoubted *Hereditary Titles*, and succeeded accordingly, were *Elected*. So the [9] Chronicle of *Normandy of King Henry the Second. Henricus Dux Normannorum in Angliam transfretans vii. Idus Decembris*, (that is, the seventh of December) *cum magno Tripudio Clericorum & Laicorum exceptus est, 14 Calendarum Januarii*, (that is, on the 19th of December) *Die Dominica ante Nativitatem Domini apud Westmonasterium, ab omnibus Electus & in Regem unctus est à Theobaldo Archiepiscopo Cantuariensi.* So likewise [1] *Ralph de Diceto, Dux Normannorum Henricus 14. Calendarum Januarii Die Dominica ante Natale Domini apud Westmonasterium ab omnibus Electus, & in Regem unctus est à Theobaldo Archiepiscopo Cantuariensi.* And after the same Rate they speak of others ; though in any of them, or any where else, there is not to be found any solemn meeting or preparations for the Election of any King, or the least footsteps of any form of Election. Yet notwithstanding ignorant, malicious Men will make use of such Testimonies as these, without examining the probability of them, when by their small Arts they plant their Batteries against the Government, though there be better Authorities to the contrary ; as in this case [2] *Roger Hoveden* speaking of the Death of *King Stephen*, says, *Cui Henricus Dux Normannorum filius Matildis Imperatricis successit in Regnum Coronatus & in Regem Consecratus, &c.* Insinuating his *Hereditary Title* as the Son of *Maud* the Empress. Accordingly *John [3] Brompton, Stephano ut dictum est defuncto Henricus Secundus Filius Imperatricis à Theobaldo*

[*] According to their Judgment if he favoured holy Church, that is, let the Clergy Govern, then they Celebrated him ; if otherwise, they Exposed him : And these Cloystered Men who wrote all then, (for few others could write or read) made a Prince good or bad as the Rabble do now, according as he pleased their humour, and were Beneficent to them ; and there was, nor could be any end of pleasing generally the silly Monks then, more than there can be of the Multitude now. The Rabble hath all their pretences from them.

in Regem Consecratur. Hereditariumque Regnum sine Diminutione suscepit Congaudentibus & Conclamantibus Turbis Vivat Rex. Paris reports the same thing, [4] Dux igitur Henricus 7 Id. Decembris in Angliam veniens cum magno Cleri & Populi tripudio Exceptus est & 14 Calendarum Januarii apud Westmonasterium ab omnibus Rex Acclamatus, à Theobaldo Archiepiscopo Cantuariensi in Regem consecratur. And in Parlement King Stephan upon the Agreement made between him, and this King Henry doth acknowledge he had the hereditary right and Title, and that by his Concession he was to possess the Crown during his Life, [5] Rex Stephanus, Recognovit in Conventu Episcoporum & aliorum de Regno Dignitatum quod Dux Henricus Jus Hereditarium in Regnum Angliæ habebat, & Dux benigne Concessit ut Rex Stephanus tota vita sua suum Regnum pacifice possideret. King Stephen acknowledged in a Meeting of the Bishops and Chief Men of the Kingdom, That Duke Henry had the Hereditary Right to the Kingdom, and that he kindly granted he should possess his Kingdom during his Life.

[4] F. 92. n. 20.

[5] Mat. Westminster f. 264. n. 10. A. D. 1153.

Sometimes Election, and the words Electio, and Electus, are used for Rejection and refusing, and a submitting to what cannot be refused, as in the Election of Jury's (as 'tis called) nothing more frequent in the old plea Rolls as Jurata Electa, Assisa Electa, & Juratores à partibus Electi, or Utrique Electi; before tryal. In an action of Trespass [6] between the Abbat of St. Albans, and Geoffrey de Childewicke and others before William Provost of Beberly, Henry of Bath, Roger de Turkeby, & Gilbert de Prestuna, Justices Itinerant, 'tis said [7] Jurata de Consensu partium venit recognitione per Petrum de Chalpy, Willielmum Rebel, &c. There also Duodecim Milites gladiis Cinai fuerunt Electi in Assisa de Consensu partium, The Knights were the Jury or Recognitors above named, Glanvil, lib. 13. c. 7. ab initio Eligendi sunt duodecim liberi & legales homines de visneto secundum formam in brevi Expressam, speaking of the Petents and Tenents chusing of them, where see more of this matter, Bracton, lib. 4. c. 19. n. 3. Et Sciendum est quod si semel de Consensu partium Eligantur Juratores ulterius recusari non possunt. In this Chapter he tells the Exceptions which lie against the Jurors, and why they may be challenged or Refused. But they can only Challenge or Refuse a Certain Number; and they must stand to the Verdict of the others. The Sheriff in very deed maketh the Pannell and chuseth the Juries, and yet they are said to be Elected by consent of the Parties, Plaintiff and Defendant. Here is no Act of positive and deliberate consent, such as is required and implied in an Election.

[6] Mat. Paris, f. 338. n. 10. 20. & c. A. D. 1240. 24 H. 3.

[7] Ibidem, f. 539. lin. 4.

By the Original Laws, Grants, and first Institution of Beneficia, or Fees, (as they were afterwards called) they were revokeable at the Will of the Lord, Patron, or Donor, when he pleased. And at any time, when he would, might take them away from the Beneficiary, Feudatary, or Possessor. Afterwards they were granted for a Year, and then for the life of the Feudatary or Vassal. When in process of time they became Successive, and passed to the Sons of the Possessor; but so, if he had more Sons than one, the Lord gave the Fee to which he pleased: From hence, by degrees, they became Hereditary, and passed also to Women; But, as at first they were given, so they always remained under Conditions of Fidelity, Fealty, or Faithfulness to the Lord, and Military Service when he commanded it; and answerable

Spelman's Glossary, fol. 565. Col. 1. from the Books of the Feudal Law.

See Hottoman, Cujacius Cragius, &c. Fees in process of time became Successive: And Hereditary. Ibidem.

	able to these <i>Conditions</i> there were two ways of losing Fees, <i>Breach of Trust</i> , which was called <i>Felony</i> , and varied according to the difference of places, in some for <i>lesser</i> , in others for <i>greater ingratitude</i> , the Fee was <i>forfeited</i> ; and for <i>want</i> , or <i>desert</i> of <i>Serbice</i> , the Fee or Land given for it, <i>returned</i> to the Lord; and in case of an <i>Infant</i> , or <i>Woman</i> , who were neither of them <i>fit</i> to perform <i>Military Serbice</i> , yet it was thought unjust they should lose their <i>Fee</i> , or <i>Estate</i> . Therefore they or their <i>Estates</i> were in <i>Guard</i> , or <i>Ward</i> to the Lord, and were called his <i>Wards</i> , and the <i>Serbice</i> by him provided for, until the <i>Male-Infant</i> was of <i>Age</i> , and trained up to, and made <i>fit</i> for the <i>Serbice</i> he was to perform: Or the <i>Woman</i> by his consent had taken such a <i>Husband</i> , of whose <i>Fidelity</i> , he was assured, and by whom she might perform the <i>Service</i> , which by <i>virtue</i> of her <i>Fee</i> she was bound to. But if the <i>Heirs</i> , or <i>Successors</i> were of age, they paid <i>Reliefs</i> , which in <i>Feudal Latin</i> were called <i>Relevia</i> , <i>Relevamenta</i> , <i>Relevationes</i> , because, by them, they took up again the <i>Fees</i> , or <i>Lands</i> , which were fallen by the <i>Death</i> , or <i>Forfeiture</i> of the <i>Feudatary</i> . Sometimes they were called <i>Introitus</i> , or <i>Ingressus</i> , and they were but an <i>honorary Gift</i> to the Lord by his <i>New-Vassal</i> , for his <i>Entry</i> upon his <i>Land</i> or <i>Fee</i> , perhaps not much unlike that of our <i>Coppyholders Fine</i> .	A
Wards.		
Marriages.		
Hottom. in verbo Relevum.		B
The Feudal Tenure in most European Nations.	This <i>Feudal Law</i> , obtained in most <i>Nations</i> of <i>Europe</i> , and in <i>Normandy</i> was in its <i>full vigor</i> at the time of the coming over of the <i>Conqueror</i> , but afterwards grew more <i>mild</i> and <i>qualified</i> , as also the <i>Tenure</i> its self, a perfect <i>description</i> of which, with all its incidents, of <i>Homage</i> , <i>Relief</i> , <i>Ward</i> , <i>Marriage</i> , <i>Escuage</i> , <i>Ayde</i> , &c. are to be found in the <i>Grand Custom</i> , Cap. 29, 33, 34, 35. and although there were <i>Military Feifs</i> , or <i>Fees</i> , here in the <i>Saxon times</i> , yet not in such <i>manner</i> as after the <i>Conquest</i> established here by <i>William the Conqueror</i> , and according to the <i>usage</i> in <i>Normandy</i> ; when as it appears by <i>Dooms-Day Book</i> in every <i>County</i> he divided most, if not all the <i>Land</i> of <i>England</i> amongst his <i>Normans</i> and <i>Followers</i> .	C
Speim. Gloss. fol. 68. col. 2. fol. 118. col. 1. Seld. Tit. Hon. Edit. in Quarto, Pa. 300. 301. Bacons Elements, Treas. 2. p. 30. Som. Gavelkind, in Appendix. Script. 21. p. 210. * Here in Appendix. Record 1. Glossar. fol. 214. 215.	But besides the two former ways of <i>Forfeiture</i> , there were many others which * <i>Sir Henry Spelman</i> hath collected from the <i>Feudists</i> and <i>Feudal Laws</i> , and some of them do here follow. Originally, all <i>Vassals</i> held their <i>Lands</i> at the <i>Will</i> of the Lord, and whether they were <i>Delinquents</i> , or not, he might at his <i>pleasure</i> , take them from them. In point of <i>Tenure</i> they were much like our <i>Ancient Coppyholds</i> , at meer will; and in this of <i>Forfeiture</i> they much resembled them, and those also at this day.	D
Vid. Hott. de Feud. Disp. c. 38. col. 886. D. E. &c. Several ways of forfeiting of Fees.	It was a <i>Forfeiture</i> , if <i>thrice summoned</i> to the <i>Lords Court</i> , they neglected, or refused to come and <i>take up</i> their <i>Lands</i> and do <i>Fealty</i> . If they refused to do their <i>Service</i> , or <i>denied</i> their <i>Tenure</i> , it was a <i>Forfeiture</i> . If they sold their <i>Estates</i> without leave of the Lord, or if they sold it by any other <i>title</i> than they had themselves, it was a <i>Forfeiture</i> . If they did any thing against their <i>Oath of Fealty</i> , if they adhered to their <i>Lords Enemies</i> , or did <i>forsake</i> him in time of <i>War</i> , or <i>danger</i> , all these were <i>Forfeitures</i> . If they committed any outrageous <i>wickedness</i> , which was called <i>Felony</i> , as <i>Murder</i> , <i>Robery</i> , <i>Burning</i> of houses, <i>Rape</i> , &c. and which was no <i>Treason</i> , this likewise	E
		F

wife was a *Forfeiture* of their *Lands* and *Estates* to the *Lord* of the *Fee*. And by committing *Felony*, and the *Non-performance* of the most of those things, upon *Combination* the *Tenants* at this day *Forfeit* their *Lands*, and they *scheat* to the *Lord*, some by *presentment* of the *Justice*, others *immediately* where the *Fact* is *notorious*.

Coke compleat
Copyholder,
Sect. 5. 58.
Kitchin, Tit.
Copyholder.

A It will make much to the further understanding of *Knights Fees*, and the *Forfeitures*, and other *incidents* belonging to them, to give a brief account of the *Institution* of *Maners* here in this *Nation*, as I find it in our *Learned Glossarist*, who says it was a *Norman word*, and brought from thence; and what the *Saxon* called a *Prædium*, or *Villa*, their *Possessions* in *Land*, with the enjoyment of *Soc*, *Sac*, *Tol*, *Team*, and other *privileges*, the *Normans* called *Miners a manendo*, because such *Possessions* were *Ordinarily* the *Seats* of the *Lords*. The *Saxon Jurisdictions* had their *Origen* from the *Grants* of their *Kings*, but *Maners* had their beginning from *Feudal Law* or *Right*: For *whoever* could *dispose* of *Fees*, might justly *give Laws* to their *Vassals*, erect *Courts*, and take upon them all other *Privileges* pertaining to a *Noble Fee*.

Fol. 39.
The first Institution of Maners.

Maner from whence derived.

They were Feudal.

C He further says at the beginning, this was the *course* of *Instituting Maners*; for the most part *different Lords* possessed the *Territories* of every *Town*, or *Village*, and *cultivated* it by their *Servants*, *Vassals*, and *Husbandmen*; for at that time there were living in the *Country*, only *Military Men*, *Labourers*, or *Husbandmen*. First, the *Lord* designed the *place* of his own *Habitation*, and annexed to it a plentiful *portion* of *Land* for the *Maintenance* of his *Family*, which are yet called *Terre Dominice*, *Demefn Lands*. Another share he gave to his *Vassal*, or *Vassals*, for their *Aid* and *Assistance* in *War*, and they were called *Knights Fees*, or *Military Fees*, which, if they were not sufficient for the *maintenance* of one *Soldier*, yet according to the quantity of *Land* they enjoyed, they contributed such a share as was agreed for, [*] *half*, a *third*, a *fourth*, or less part according to the *smallness* of the *portion* of the *Fee* granted towards the *Lords Military Expences*.

How they were instituted.

Ibidem.
For maintenance of their Horse and Arms.

E A third part he distributed to such as performed all *Rustick* and *Servile Works*, *Repaired* his *Houses*, *Plowed* and *sowed* his *Land*, *Reaped* his *Crop*, *Carried* it into the *Barn*, *Threshed* it, *Digged*, *Hedged*, and took *Care* of his *Flocks* and *Fields*. The *Precincts* of his *Distribution* were *Governed* by such *Laws* as the *Lords* imposed; and as all their *Estates* arose from his *Beneficence*, so they depended on his *Will*: hence so many several *Customs* in several *Maners*.

Ibidem.
Base tenure.

Whence several Customs in several Maners.

F The *Lords House* was the *Aula*, *Hall*, or *Court*, and all the *Tenants*, if need required, were bound to attend there every *three weeks*, but generally at the *Feast* of the *Annunciation* and *St. Michael*, from whence these *Courts*, kept at those times, were called *Curie generales*, or *general Courts*.

Grand Custom of Normandy, Chap 34. 35. 53. & every where in our ancient Lawyers and Historians.

[*] I rather think Fees were entire at first, and the Division of them happened either from the Poverty of the Tenant, or his dividing it amongst his Children by leave of the Lord, for which there was a Composition paid, as in Copyholds at this day.

Hot. de Feud.
Disp.c. 10. 830.
D. They might
straighten, but
not enlarge
the Condition
of the Fee.
* Ibidem, c. 53.

Lords of Ma-
ners ought
suit to the
Courts of
mean Barons.

And they to
the Courts of
great Barons
on whom they
held.

Glanvil, lib. 1.
c. 3.
And great Ba-
rons to the
Exchequer or
Knights Court
The Lands of
England par-
celled out, and
distributed by
the Conquer-
or.

Seldens Tit.
Hon. fol. 572.

All Maners
not of the
same extent
and value.
Magna Char-
ta, c. 32.

Pag. 164. b. n. 4

Fee-Farms.

Ibidem, a. n. 3.
Frank-Farms
or Tenements

These Lords of Maners, or small Baronies, held either *in Capite* of the King, or most commonly of other great Barons, as of their Honours, or Heads of their Baronies, by the same Tenures, and under the same Forfeitures; and these in like manner of the King *in Capite*: for by the Feudal Law, Sub-Fees were to be given, and received according to the Laws of the first Institution of the Capital, Royal, or Great Fees, which held immediately of the Prince; and therefore as the Inferior or lowest Lords* had their Courts for adjusting all matters within the Jurisdiction of their Maners, so had those of a middle rank within their Jurisdiction, for such of these Inferior Lords, or others, as held of their Baronies.

And likewise the Capital Barons had their Courts within their Jurisdiction, in which, all, or most matters relating to, and arising between their Tenants, were ordered and decided. And they were not only held at the chief seats of their Honours or Baronies, but perhaps all over England, where they had any considerable Lands or Possessions. As the Honor of Richmond, Honor of Gloucester and Clare, Dutchy of Lancaster, &c. have at this day their several Courts for determining Controversies and Suits within their Jurisdiction, of matters of small value.

Lastly, These great Barons were within the Jurisdiction of the Kings Court, which was then the Exchequer, where all Pleas concerning their Baronies were terminated: The Conqueror gave to some of his greatest Followers Titles of whole Counties, and to some two and three Counties, with a great proportion of Lands in them; to others some part or portion of a County, as Hundreds, or a greater or lesser share, who parcelled them out to their Dependents and Friends, and they again to theirs, till at last the Soldiers and Ordinary Men had some proportionable share for their Services, though upon hard Conditions, possessing them for the most part as Feudataries, and according to the Rules of the Feudal Law, which was the Law for the most part in Normandy, as to Possession and Tenure.

These Knights Fees were not all of the same value, but some greater, some lesser, according to the Beneficence of the King, or those that held of him *in Capite*, to their Tenants in Military Service, or Sub-Feudataries: some were scanty Allowances, for their Performances and Services; others were plentiful, much more than would make good the Service; and then by the Kings Licence they Let part of those Lands to Fee-Farm, so called, because a Farm-Rent is reserved upon a Grant in a Fee: And Britton says they were Lands held in Fee, which answered the yearly value. Upon which Tenements, no Homage, Ward, Marriage, or Relief could be Demanded without special Reservation in Writing, or by the same Licence changed part of their Capite, or Knights-Service Lands into Frank-Farms, which were Lands and Tenements, of which, the Nature of the Fee was changed by Feoffment, from Chivalry, or Military Service, for certain Services by the year, for which Homage, Ward, Marriage, or Relief, or other Service could not be demanded, that was not contained in the Feoffment. Hence most of our Freeholds, and the Rents called Free-Rents, due to Lords of Maners; and hence the ordinary Libere Tenentes, which in those days were not always Freeman; for

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for a Tenement changeth not the Condition of a Freeman; or servant, or Villan. A Freeman might hold pure Villanage, and yet remain free; and a Bondman might hold by free Services, and yet be a Bondman. *Quia Tenementum nihil confer vel detrahit personæ*; for that a Tenement, or Possession, neither added to, or detracted from the person of any Man, if free or bond, according to his Blood or Extraction.

Bracton. lib. 2.
c. 8. n. 3.
A Free-Tenement might be by blood a Bondman.
Ibidem, n. 1.

- A From these Military Fees or Possessions, the Milites had their Names, Nam Miles (says Sir Hen. Spelman) quem Baronem vocabant, non à Militari cingulo, quo Equites creabantur, sed à Militari feodo (quo alias Possessor & Libere Tenens nuncupatus est) Nomen sumpsit. For a Miles which was called a Baron, took not his Name from the Military Girdle, with which Knights were Created, but from the Military Fee, by reason of which he was otherwise called a Possessor or Free-Tenant; and so Camden; Milites primo apud nos appellati fuerunt, qui Prædia Beneficialia Tenuerunt ut Militarent. They were first called with us Milites, which because they went to Warfare, had Lands given them. And many Tenents in Capite there were, who had scanty Fees, or only parts of Fees, or that desired not Knighthood, and had Compounded or Fined that they might not be made Knights, that were not actual Knights, who were called Free-Tenents or Freeholders. This is evident from several Writs in the Appendix, Record 9. 10. 11. And these with the Knights were the Communitas Regni, when mentioned after Earls, Barons, and Magnates in old Records, and after that manner distinguished from them.
- B
- C

Glossar. fol. 72. col. 1.
Milites why so called.

Britan. fol. 123

Many Freeholders Tenents in Capite that were not Knights. See Append. Record. 9. 10. 11.

- D Possessors of Parts, and Members of Knights Fees without doubt there were many, which had Court and Jurisdiction and Services belonging to them; for these Priviledges were extended to an eighth part of a Fee, and the Division of a Fee as far as an eighth part, was called a Member of Fee; hence so many small Maners. Fees were further divided even to a fortieth part, but then they enjoyed not those Priviledges. Grand. Custum. of Normandy, c. 33. Crag. de Fend. f. 72.

Members of Fees.

- E Not but most, if not all the Great Barons, as also the Tenents in Capite, and some others that held many Knights Fees of mean Lords, and were possessed of great Estates, were actually [*] Knights, created by Ceremony; that is, they were Baltheo Militari cincti, or Ornati, Girt by the King with the Military or Soldiers Belt, as the Custom was in those times, when it was reputed a very great Honor to be so Knighted or Girt; and from hence, as well as from their Fees, Barons were frequently stiled Milites, and Chivalers, as Selden assures us, that in the Writs of Summons to Parliaments, pleadings, and other Legal Instruments, most regularly the word Baron is wholly omitted, and usually Chivaler supplies it, as an Addition in the Parliament Writs to the Temporal Barons. And from the Pipe-Rolls in the time of Henry the Second, he says they had Heads de Scutagiis Baronum Angliæ, de exercitu Walliæ, & de Scutagiis Baronum qui non abierunt cum Rege in exercitu Galweie, de Scutagiis Baronum qui non abierunt, nec Milites nec Denarios Miserunt ad exercitum Hiberniæ, Galweie,
- F

Tit. Hon. fol. 71.
Rot. Mag. 20.
Hen. 2. in Buckingh. &c.
Seld. Tit. Hon. fol. 574.
Note, The Tenents in Capite are called the Barons of England in the Pipe-Rolls and were the same persons.

[*] Men that held great Estates of great Tenents in Capite, as 5, 6, 7, 8, 9, 10. or more Knights Fees, were Titular Barons, and called by such great Tenents in Capite, their Barons; but were not Barones Regni, or Parliamentary or Great Council Barons, as I have shewn elsewhere.

* *Escuage* or *Scutage* service was a Fine or Composition paid to the King, when the Knights upon Summons to War, were Excused from performance of their Service.

Mat. Westm. fol. 366. n. 10. A. D. 1259. Great Earls called *Milites*.

Ibidem, 395. n. 23. 30. Slain at Evesham. Great Barons called *Milites*.

Ibidem, 399. n. 50.

Paris, fol. 997. n. 30. Ibid. 996. n. 50.

Wallie; that is, of the *Scutages* of the *Barons* of *England*, of the *Army* of *Wales*, of the *Scutages* of the *Barons* which went not with the King in the *Army* against the *Scots*; of the *Scutages* of the *Barons*, who went not in, nor sent their *Milites*, or *Money* to the *Army* of *Ireland*, *Scotland*, *Wales*. And says further, that under those *Heads* the *Names* of the *Barons* of the *Counties*, where the *Heads* are placed, occur together with the number of the *Knights*, (or *Knights Fees*) for which they paid their **Escuages*; and the same kind of *Tenents* in *Ches*, or *Barons*, are oft-times also in the *Rolls* of the same time indifferently called *Milites*, in *Heads* of the same *Syllables*, saving that *Militum* supplies *Baronum*, which agrees with the use of the later Ages, wherein *Miles* and *Chevalier* have been so proper and usual in the *Expression* of them. Thus far *Selden*, whom I have rather cited than the *Rolls* themselves, because with some Men his *Authority* is greater.

But further, That *Miles* was a frequent Title given to our great *Earls* and *Barons*, take these few Instances, in stead of great numbers out of *History*.

Circa Kalendas vero Aprilis ex precepto Regis, & totius Baronagii Consilio, arripuerunt iter transmarinum ad Parliamentum magnum Domini Regis Francie, pro pluribus arduis negotiis, Regna Francie & Anglie contingentibus, Comes Globern. & Lecest. Dominus Johannes Mansel, Petrus de Sabaudia, & Robertus Wallerand Milites, habentes potestatem componendi & pacem inter eos firmiorem inveniendi, si idem Rex Francie paxa precedentia, ut prelocutum fuerat inter speciales nuntios suos, & Regem Anglie inviolabilia satageret conservari.

Simon Comes Lepcest. Hen. filius ejus, Hugo Dispensator Justitarius Angl. Petrus de Monte forti, Guiliel. de Mandebilla, Rad. Bassler, Roger de Sancto Johanne, Walterus de Creppings, Guil. de Ebozaco, & Robertus Cregos, Barones & Milites prepotentes; All slain in the Battel of Evesham.

Miles Egregius Dux Edwardus, said of the Prince:

Defendens omnes Gilbertus Milites nobiles de Marchia quorum supra facta est mentio: These were Rogerus de Mortuo Mari, James Audeley, Roger de Leiburn, Roger de Clifford, Paimo le Strange, & Hugo de Turbibile, and others, all great and considerable Barons in the Marches of Wales.

Fendatarii,

Feudatarii, Fideles.

F *Feudatarius* qui *Feudum* à *Patrono* sibi commissum accepit, and was the same that *Beneficiarius*, and *Beneficium* the same that *Feudum*, for *Feudum* & *Feudatarius* came in use in stead of them. He was one that received *Land* of any *Lord* to do him *Servite* for it, and did him *Homage* and *Fealty* for the *Lands* he held of him, and *Servites* he was to do him.

Hortom. in
verbis Feud.
col. 924. D.
Printed 1599.

Fideles interdum generaliter dicuntur, qui in *Principis* alicujus *Potestate* & *Ditione* sunt, qui vulgo *subjecti* appellantur. Sometimes they are taken for *Subjects* in General.

Ibidem.

B *Interdum* specialiter dicuntur iidem qui *Vasalli*. Qui *fendo* accepto in *patroni* *fide* & *Clientela* sunt, vicissimque suam ei *cervi* obsequii nomine *fidem* astrinxerunt; Sometimes they are the same with *Vassals*, who having received *Fees*, are in the *Retinue* of some *Patron* or *Lord*, and have pledged their *Faith* to do him certain *Services*. In this last sense, as well as in the first, the word *Fideles* often occurs in ancient *Historians* and *Records*. *Willielmo filio Hen. 1. Cum vix 12 annorum esset omnes liberi homines, &c. Cujuscunque ordinis & dignitatis, Cujuscunque Domini Fideles manibus & Sacramento se dedere coacti sunt.*

Ibidem, col.
925. A.

Malmsb. fol.
93. a. n. 30.

D *Rex Baronibus, Militibus & omnibus Fidelibus totius Anglie salutem.* These were to hear what the *Bishop* of *Winchester* was to say to them about the *Releasing* the *Interdict*, and that these *Fideles* were the *Kings Tenents in Capite*, is clear from the later part of this *Record*. *Unicuique vestrum si fieri potest, literas nostras super hoc transmissimus, sed ut negotium majori festinatione, &c. Teste Meipso apud Rupell. vi. Die Martii.* The *King* had writ to them all particularly but that the business required great hast. Before *Magna Charta* this *King* sent special summons and particular letters to his *Barons* and other *Tenents in Capite* to meet upon any occasion, which was granted *June* the 15th, in the 17th of his *Reign*.

Pat. 15. Jo-
hannis p. 2.
m. 2. n. 9.

E *Rex omnibus Comitibus, Baronibus, Militibus & aliis Fidelibus suis de Com. Ebor. Northumbr. Cumb. &c. vobis Mandamus quod prompti sitis & parati cum Equis & Armis, &c.* These were *Feudataries*, and *Tenents in Military Service*.

Cl. 41. Hen.
3. m. 10.
Dorf.

Rex dilecto & Fideli suo Rogero le Bigot, Com. Norff. ut cum Equis & Armis, & servitio vestro, &c. Eodem modo mandatum est, to 130 *Barons* and *Tenents in Capite*.

Cl. 47 Hen. 3.
m. 7. Dorf.

F *Rex dilectis & Fidelibus suis Militibus & liberis hominibus de Com. Southampton, Mandantes Rogamus ad nos sitis cum Equis & Armis, &c.*

Pat. 48 Hen. 3.
m. 18. Dorf.

Rex Vicecom. Northumbr. &c. cum dilecti & Fideles nostri Johannes de Bayloly, Petrus de Brus, Radulph. filius Ranulphi & Socii sui. These

Cl. 50 Hen. 3.
m. 9. Dorf.

These were *Barons* and *Tenents in Capite*. See Dugd. Baronage, Tome 1.

And that the *Fideles* were such as here described in the meaning of the *Feudal Law*, See *Cujacius* de Feud. lib. 1. Tit. 17. *De successionē & Culpis Militis Fidelis*. Tit. 22. *De investitura quam facit Dominus sine consensu Fidelis*, Tit. 23. *Ut Miles Fidelis de possessione feudi non ejiciatur sine culpa*. Tit. 24. *Si Dominus investituram feudi negaverit, cum Fidelis est in possessione feudi*, lib. 2. Tit. 19. *Si de investitura feudi Contentio fuerit inter Dominum & Fidelem*, Tit. 20. *Si inter Dominum & Fidelem de feudo fuerit Quæstio*, lib. 4. Tit. 100. *Impetratorem feudum amittere, vel alium pro se Fidelem dare*: In all which places, *Fidelis* and *Feudatarius*, or *Feudal Vassal* are the same.

Ut omnes Episcopi, Abbates, Abbatissæ, Optimates & Comites seu Domestici & Cuncti Fideles qui Beneficia Regalia habere videntur, &c. Capit. Caroli Magni, lib. 1. c. 132. very often the word is to be found in this sense in these *Capitularies*, and in the *Lombard Laws*, and in all the *Feudists* especially.

The meaning of this word *Fideles*, as also of these words *Liberi homines*, *Libere Tenentes*, &c. is to be known from the Subject Matter where they are used, and the words with which they are joyned in *Construction*, which will give us the true sense of them where-ever we meet them.

Folke-

Folke-Mote.

S I R Henry Spelman tells us concerning the Folke-Mote, that every May-Day yearly, as in an Annual Parliament, as well the Chief of the Realm, as the Bishops, Magistrates and Freemen met. The Lay-Men were sworn to defend one another, sware Fealty to the King, and to preserve the Laws of the Kingdom, they consulted of common Safety, Peace and War, and the Publick Benefit. As to the time of Meeting by the words he uses, he should have taken that out of the *Antuarie* of the 35 Law of Edward the Confessor, where it is said There was also a Meeting of like Nature for chusing of *Sheriffs*, and *Heretochs*, and other *Officers*, and dispatch of some other business, which were indeed the ancient *Sheriffs Turns*. But wheresoever he had the later part of his description of a *Folke-Mote*, though I have a great veneration for the very name of Sir Henry Spelman, I am sure it could not be so; if we may rely upon the *Saxon Laws*, *Gif Don on Folces-gemot Cyninges geresan ge-pppe Cofar, and his est getwican wil, gestele on riðtran hand gif he mege: gif he ne ðage Cþolige his angylðes*. If any Man in Folk-Mot declares concerning a Debt before the Kings *Provost*, or *Officer*, and ceases from that Declaration, to put it into a *righter hand* or way of *Dispatch*, he shall lose his *amends* or *Satisfaction*.

LL. Alured.
C. 22.

Eac is *Ceapmannum* gerit tha men the bi opmid beom *Ledath*. *Sebringan* beforan *Cyninges geresan* on *Folc-gemote*; and *gerette* bu *ðaniga* ðera *syn*, et he nimen tha men mid beom, the big *ðagon* est to *Folc-gemote* to riht *Sebringan*; et ðonne beom *Cþearf* sy ma manna up mid beom to hebbanne on heora soze, *ge-cyþe* symble swa oft swa *Cþearf* sy on *Gemotes gewyrnþse* *Cyninges Geresan*. Also it is the *Merchants* right, that the Men he carries with him he bring before the *Kings Reve* in *Folk-Mote*, and reckon how many there are, and then he may take those Men with him, which he may afterwards bring to Justice in the *Folk-Mote*, and then if there be necessity for him to have more Men with him than heretofore, he shall shew them always before the *Kings Reve* in the *Gemot*, or under *Testimony* of the *Gemote*, so oft as need shall be. These *Folk-Gemots* were held before the *Kings Geresen*, who we never read was permitted, or had any *Commission* to treat of *Peace*, or *War*, *Public Safety*, or *Benefit*. Nor is it probable the *Merchants* could bring their Men before such great Meetings only twice in a year, for they must either lose their *Voyages*, or these Meetings must be called to take a *View* of every *Merchants Men*, neither of which I think are probable, and therefore I take the *Folk-Motes* in the *Saxons* time to be an *Inferior Court*, and may be it was the *Monthly Court*, as this Law not very obscurely seems to hint to us. Ic wille that eac *ðe-resa* hebbe *Gemot* a ymb feower wrcan and ge don that eac *ðan* sy *Folc rihts wyrthe* and eac *spret* hebbe end.

Ibidem, LL. 30

LL. Ed. Sen.
C. 11.

I will, That every *Reve* have a *Gemot* always about four weeks distance, and do, that each Man have *Folc-right*, and that each Squabble have an end.

And

LL. Athelstan,
c. 2.

And we Cwædon be ðem blafoꝛð leaſum mannum. The nan Ðan nan rihtre et begytan ne meg. That Ðan buðe there meg the that hi hine to rihtre gebamette et him Ðlafoꝛð funden on Folk-Ge-mote. And we ſay, concerning *Lord-leſs Men*, againſt which no Man can have *right*, that his Kindred be commanded to bring him to *right*, and find him a *Lord*, or *Fide-juffor*, to undertake for him in the *Folk-Mote*.

A

Ibidem, apud
Groatanley, c.
1.

If any Man turned away his Servant for evil doing, and his *Lord* had a mind unjuſtly to undo him, berette hine ðonne gif he Bege on Foʽrgeinote. He may Juſtifie himſelf if he can in the *Folk-Mote*.

All theſe Laws prove the *Folcgemote* to be an *Inferior Ordinary Court*.

B

Judicium Dei, Bellum vel Judicium, ceu Dei Ju- dicium.

C

* Decret.
Gregor. lib. 5.
Tit. 33.

The meaning of *Bellum* as 'tis here diſtinguiſhed from *Judicium*, is known by every one, but by *Judicium*, or *Dei Judicium*, ſometimes was meant *Purgation*, by which the crime was removed, where Men wanted witneſſes to prove their innocency: And this *Pur-gation* was either * *Canonical*, ſo called for that it was allowed by *Ca-nons* and *Councils*, and was always performed by *Oath* either of the *Party* alone, or others joyned with him. Or *Vulgar*, received as intro-duced at firſt by the *Ignorant* and *Superſtitious* Multitude, and was cal- led an *Invention* of Men, a popular *Invention*, a ſtrange Judgment, a Law without any Sanction, and this was performed by *Duel*, Red hot *Iron* carried in the hand, or Red hot *Plough-shares* to be walked over by blindfolded Perſons, or by *Hot Water*, or by *Cold*, or by the *Croſs*, the *Eucharift*, or *Morſel* with *Imprecations*, &c.

D

Swearing and *Duel* (though ſometimes) were but ſeldome taken in this ſenſe for the *Judgment* or *Deſiſion* of *God*, which was moſtly underſtood of *Fire* or *Water Ord'al*, or the probation by *hot Iron*, *hot* and *cold Water*. Si negaverit ipſum occidiſſe, ad novem bomeres ignitos, ad judicium Dei examinandum accedat, LL. Longobard, lib. 1. Tit. 10. Sect. 3. If he that was accuſed did not confeſs the mur-der, he was to be tryed by ſtepping barefoot blindfolded over nine *Plough-shares* laid in length at equal diſtance, which if he paſſed un- burnt, he was judged *innocent*, but if burnt, he was judged *guilty*; this they termed examination by the *Judgment* of *God*. Giſ þwa Ðrda- les Weddige, &c. LL. Athelſtan. c. 23. which words *Brompton* ren- ders, ſi quis Judicium ferri vel aque vadiaverit, Col. 844. n. 20. (be- cauſe the manner of performing both thoſe ſorts of *Ordale* are Deſcri- bed in that Chapter) if any Man gives *pledge*, or *ſecurity* to undergo the *Judgment* of *Fire* or *Water*, &c. And in *Canut's* Laws, That he ga to Godes Ðrdale, ad Dei Judicium eat, c. 32. In the Laws imputed

E

F

- imputed to King Edward the Confessor, it is said of an English Man that killed a Dane, *Si se super hoc defendere non potest Iudicio Dei, scilicet aqua vel ferro, fieret de eo Justitia*; If he was found Guilty by the Judgment of God, to wit, by Water or Iron, let Justice be done upon him, that is, let him be put to death as the Law was, c. 16. In the * Laws of William the First, *Judicium & Bellum* are contradistinguished, *Anglus se defendat per quod melius voluerit aut Iudicio ferri aut Duello*, c. 62. *Anglicus homo de re aliqua pro qua Bellum fieri debeat vel Iudicium inter duos homines habeat plenam licentiam faciendi*, c. 68. *Si Francigena compellat Anglicum per Bellum, &c. Anglicus plena licentia defendat se per Bellum vel per Iudicium si magis ei placeat*, c. 69. In all which places an English Man had liberty given him to defend himself by *Duel* or *Judgment*, which he pleased. So also Glanvil after he had spoken of *Duel*, and the Causes for which some Men might be excused from it, says, *In tali autem casu tenetur se purgare, is qui accusatur per Dei Iudicium, scilicet, per calidum ferrum vel per aquam pro diversitate Conditionis hominum, scilicet, per ferrum Calidum si sit homo liber, per * aquam si fuerit Rusticus*. In such case the accused person was bound to purge himself by Judgment of God, to wit, by Hot Iron or by Water, &c. Gervase of Tilbury likewise tells us, That *Judicia* were *Leges candentis ferri vel Aquæ*. De Observand. Scaccarii, Lib. 2. Tit. or. C. 8.
- C 'Tis recorded in *Doomsday* of the Towns and Lands belonging to the Liberty of Cantone, *de his omnibus terris futuri Sacramentum, vel Iudicium portaturi, ad Cantone veniunt*. Ibidem. f. 87. b. col. 1.
- This carrying of Hot Iron, was taking a piece of Red Hot Iron of a Pound weight into the hand, which was called simple Ordal, and carrying it the time of nine steps or paces, and if it was three Pound weight it was *Triplex Ordalium*. See Olaus Norm. Monumenta Danica, lib. 1. cap. 11.
- D *Judicium in nullo loco portetur nisi in Episcopali sede aut in illo loco quem Episcopus ad hoc Constituerit*. Monast. Angl. vol. 3. f. 308. col. 2. lin. 3.
- See more in the Discourse about Ordal in the Saxon Story.

* If these Laws were his, he published them presently after his first Entrance before he had wholly subdued the Nation.

* That is, as they try Witches whether he would sink or swim.

E

F

G

Liberi

Liberi Homines, Libere Tenentes.

In Selden's
Notes on
Eadm. LL. 55.

Ibid. LL. 59.

Ibid. LL. 58.

Chap. des Feifs
& Droits Fec-
daux, fol. 113.

Soccagers.

Malmbs fol. 93
a. n. 30.

Liberi Homines most properly were those which held in Military, or Knights Service, and in this sense of the words, all the Earls, Barons, Knights, and others that held Knights Fees, or part of Knights Fees, were called and esteemed Freeman. Of these Freeman there is often mention in William the Conqueror's Laws. *Volumus etiam & firmiter precipimus & concedimus ut omnes Liberi Homines totius Monarchie regni nostri, teneant terras suas & possessiones libere ab omni exactione injusta & ab omni Tallagio, &c. Ita ut nihil ab iis capiatur nisi serbitium suum liberum, &c.* This was Military Service, called Free, in respect of other Base Services. *Statuimus etiam & firmiter precipimus, ut omnes liberi homines totius Regni, sint fratres Conjurati ad Monarchiam nostram defendendam.*

Statuimus etiam & firmiter precipimus ut omnes Comites & Barones, & Milites & Serbientes, & universi Liberi Homines totius Regni habeant & teneant se semper bene in Armis & in equis ut decet & oportet, & quod sint semper prompti & bene parati ad serbitium suum integrum nobis Explendum & peragendum, cum semper opus fuerit, secundum quod nobis de feodis debent & Tenementis de Jure facere. These Liberi Homines were the same in all three Laws.

Beault, upon the Customs of Normandy, gives from Coquille a brief account of Free Fees, and Freeman, or Gentlemen. *Sur le declin de l'Empire Romain les François (ainsi dit de Franconie Province d'Alemayne) apres avoir Conqueste les Gaules, sur les Romains à limitation d'iceux Distribuerunt les Domaines de leur Conquests aux Soldats qui avoient esté avec eux victorieux & iceux retindrent a eux seuls la dignité d'Estré Gentils Hommes. Pour avoir droit de manier les armes, & aux Gaulois vassaux qui Essoient les anciens habitans du pays appelez Roturiers ils offerent l'usage des armes leur Reservant le Menage Rustique & la Marchandise. De ce tems la est venue la Distinction des Nobles & des Roturiers, & la loy par laquelle les Roturiers ne peuvent tenir Fiefs Nobles. Car il est certain que tous personnes n'estoient pas anciennement capables de tenir Fiefs Nobles, il n'y avoit que les hommes nobles Francs et exempts de payer Tailles et Subsidies, c'est pourquoy tels Fiefs estoient appellz Francs. But in France, as well as here, in process of time, the Law became more easie, by the Relaxation of the Feudal Law, and daily use, almost all Men became capable of purchasing, holding, or receiving ex dono these Fees, however those that held them were most properly accounted Freeman, and Free Tenents.*

Willielmo Filio Hen. primi omnes Liberi Homines Anglie et Normannie cujuscunque ordinis et dignitatis, cujuscunque Domini fideles manibus et sacramento se dedere coacti sunt. These were all Tenents in Military Service, and all Feudataries, or Vassals, of what Lord soever.

Florence

Florence of Worcester relates how the Nobility performed this, *Conventio Optimatum et Baronum totius Angliæ apud Seresberiam 14 Calendarum Aprilis facta est. Qui presentia Regis Hen. Pomagium filio suo Gulielmo fecerunt, et fidelitatem ei juraverunt.*

Fol. 657.

A Cadmer says, 13 Calend. Aprilis factus est Conventus Episcoporum, Abbatum, et Principum totius Regni apud Serberiam cogente eos illuc Sanctione Regis. Igitur agnita Regis voluntate mox ad nutum ejus omnes Principes facti sunt homines ipsius Willielmi, fide et Sacramento confirmati. Radulphus autem Archi-Episcopus Cantuariensis et alii Episcopi atque Abbates Regni Anglorum Fide et Sacramento professi sunt, se Regnum et Regni Coronam si defuncto patre suo superviverent, in eum, omnia omni Calumnia et occasione translaturus, eique cum Rex foret Hominia fidei mente facturos.

Fol. 117. n. 30. 40.

B In a Warrant 14 Johan. to all the Sheriffs in England, the noted and usual Freemen are discovered, *Summons per bonos Summonitores, Comites, Barones, Milites, et omnes Liberos Homines et Servientes, vel quicunque sint vel de Quocunque Teneant, qui arma habere debent, vel arma habere possunt, et qui Pomagium nobis et Ligantiam fecerunt, &c.*

Mat. Paris. fol. 233. n. 50. &c.

C Rex dilectis et fidelibus suis Militibus et Liberis Hominibus de Com. Southampton, &c. vobis Rogamus Mandantes, &c. ad nos sitis cum Equis et Armis et toto posse vestro apud Oxon, &c. These Liberi Homines were Tenents in Military Service. Hec est conventio inter Dominum Johannem Regem Angliæ ex una parte et Robertum filium Walteri Marecallum Exercitus Dei et Sanctæ Ecclesiæ in Anglia et Comitem Richardum de Clare, and five Earls more, and six Barons there named, et alios Comites et Barones et Liberos Homines totius regni ex altera parte: These Liberi Homines were the other Tenents in Capite, or at least their Retinue, and Tenents in Military Service, which were with them at Runnemeade, where this Agreement was made.

48 Hen. 3. M. 18. Dorf.

Cl. 17 Johan. M. 21. Dorf.

D These Liberi Homines, or Freemen, were the only Men of Honor, Faith, Trust and Reputation in the Kingdom; and from amongst such as these, which were not Barons, the Knights did chuse Jury-men, served on Juries themselves, bare Offices, and Dispatcht all Country-Business.

Pat. 42 Hen. 2. M. 3. Dorsetshire.

Pat. 42 Hen. 3. M. 3. Hertf. And so to other Sheriffs through England.

E These were the Freemen which made such a Cry for their Liberties, (as appears by Magna Charta, most of which is only an Abatement of the Rigour, and a Relaxation of the Feudal Tenures) the rest were but only Followers, and helped to augment the Noise; they were no Law-Makers, as this Gentleman fondly imagines; for 'tis not probable, that those Men that had the Force of the Nation, would permit Men of small Reputation to share with them in Law-Making.

F Those that had the Power of this, and other Nations de facto, always did give Laws, and Tax the People.

And so did the Tenents in Capite tax themselves, and all other Tenents and Freemen of England in those times we are writing of, as also did the Citizens and Burgesses, Civitatum & Burgorum Dominicorum Regis, (for indeed all Cities and Burghs by reason of their Trading

Priviledges

* Pat. 30 Ed. 1.
M. 1. Pat. 35.
Ed. 1. M. 45.
& Breve E. 1.
inter Com-
munia Brev. in
Scaccar. Ter.
Tria. An.
Regn. 34 in
Append. & fin.
20 E. 3. M. 7.

Claus. Hen. 3.
M. 5. Dorf. Ap-
pend. Record
12.

* Fideles here
were the
Kings Feuda-
taries: See
here the word
Regnum.

Mat. Paris. f.
322. lin. A. D.
1224. 8 Hen. 3.

Ibidem.
* That is, the
Book of the
Prior y there.

Pat. 15 Hen. 3.
M. 3. Append.
Record 13.

Privileges were such, and therefore chiefly so called) as will be made evident upon another occasion. This hath been partly proved by several * Records produced in the Explication of the words *Communitas Regni*, and in the Animadversions on *Juni Anglor. facies nova*, 169. D. 170. A. 221. A. B. C. &c. and shall be further proved by these following.

*Rex Vicecom. Northampton, salutem. Scias quod pro magna necessitate nostra & ingentissima Debitorum nostrorum instantia, necnon & pro Conservazione Terre nostre Picard. Concesserunt nobis sui gratia Communiter omnes Magnates & * Fideles totius Regni nostri. Denum nobis faciendum, scilicet de qualibet Caruca sicut juncta fuit Crastino Beati Johannis proxime preterito Anno Regni nostri quarto Duos Solidos per manum tuam & Duorum de Legalioribus Militibus Comitatus tui Colligendos, qui de voluntate & Consilio [*] omnium de Comitatu in pleno Comitatu Eligentur ad hoc faciendum, &c.*

The Soldiers of *Falcasius de Brent* took *Henry de Braybrooke*, one of the Kings Justices, Prisoner when he was at *Dunstable* Trying of Causes, and carried him to *Bedford-Castle*. The King sent and demanded him; The Governour of the Castle denied to deliver him: The King by advice of the [*] Clergy and Laity then in a great Council at *Northampton*, besieged and took the Castle, and towards his Expences, *Regi vero pro maximis Expensis & laboribus suis tam a Praelatis quam a Laicis, Concessum est per totam Angliam Carucagium de qualibet Caruca duo solidi argenti: Magnatibus item Concessit Rex Scutagium: Videlicet de quolibet Scuto Duas Marcas sterlingorum.* The Scutage granted by the King to the great Men, was from their Tenents in Military Service, and it was to such as were with the King at the Siege of the Castle.

The Chronicle of * *Dunstable*, where the Justice was taken, reports the Gift of this *Ayd* to have been otherwise, speaking of besieging the Castle as above, *Archiepiscopus, Episcopi & Abbates Suffraganei Concesserunt Regi in Auxilium, Carbagium, scilicet Dimid. Marc. de singulis Carucis Dominicis, & Duos Solidos de singulis Carucis Tenentium suorum.*

Rex omnibus, &c. Salutem. Cum peteremus & Praelatis Anglia quod nobis Auxilium facerent pro Magna necessitate nostra de qua eis Constabat, videlicet Episcopis, Abbatibus, Abbatissis, Prioribus, Priorissis, qui de nobis Tenent in Capite, ipsi nobis liberaliter Concesserunt Auxilium tale. Scilicet de singulis Feodis Militum [] suorum Quadraginta Solidos, de tot feodis de quot ipsi tenentur nobis respondere quando faciunt nobis Serbitium Militare. Et Nos Concessimus eisdem Praelatis quod ad pradium Auxilium nobis faciendum, habeant de singulis Feodis Militum quae de eis tenentur quadraginta Solidos, &c.*

[*] What these *Omnibus de Comitatu* were, See Pat. 9. Hen. 3. M. 7. Dorf. here in Append. Record 16.

[**] *Cum Dominus Rex cum Clero & Baronibus Regni apud Northampton transiret, &c. Chron. Dunstaplie in Bib. Cotton. Tiber. A. 10. f. 21. a.*

[**] This quite spoils Mr. *Peyr's* Comment upon the memorable Record concerning the Prior of *Coventry*, which he happily found in the Exchequer. Append. to Rights of the Commons, &c. p. 141. 178.

- A *Rex Vicecom. Somerset, salutem. Scias quod Comites & Barones & omnes alii de Toto Regno nostro Anglie spontanea voluntate sua & sine consuetudine concesserunt nobis efficax Auxilium ad magna negotia nostra Expedienda, unde provisum est de consilio eorum, quod habeamus de singulis feodis Militum, que de nobis Tenent in Capite. Et de Wardis t. m de nobis feofamento quam de veteri duas Marcas ad Auxilium predictum nobis faciendum, &c.*
- B *Rex Vicecom. Kanc. salutem. Scias quod cum in Octabis Sancti Hilarii Anno, &c. 21. ad mandatum nostrum convenirent apud Westmonasterium Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones totius Regni nostri, &c. Idem Archiepiscopi, Abbates, Priores & Clerici Terras habentes que ad Ecclesias suas non pertinent. Comites, Barones & Liberi Homines pro se & suis Villanis nobis Concesserunt in Auxilium tricesimam partem omnium Mobilium, &c.*
- C *In the Ninth of King Henry the Third, the Tenents in Capite, that is, the Arch-Bishops, Bishops, Earls, Barons Abbats and Priors, gave a 15th part of all the Goods as well of Ecclesiasticks as Laicks for the Grant of Magna Charta.*
- In the 54th of his Reign they gave him a 20th part of all the movables of the Kingdom; and because the Prelates, great Men and Community of the Kingdom thought it not expedient (Quia tamen Prelatis, Dignatibus & Communitati Regni nostri non videtur Expediens, &c.) for him to undertake the Cross and Voyage into the Holy Land, by the advice of the foresaid Prelates and great Men (Consilio predictorum Prelatorum & Dignatum) his Son Edward was directed to undertake that Service, and had the 20th part assigned to him by the King.*
- D *In the Seventh of the same King there was a Poll or General Head-Tax Granted, coram nobis & Consilio nostro presentibus Archiepiscopo Cantuariensi, Episcopis, Comitibus Baronibus, & Dignatibus nostris de communi omnium voluntate, before the King and his Council, by the common consent of the Archb. shop of Canturbury, the Bishops, Earls, Barons, and the Kings Great Men.*
- E *That many of these Tenents in Capite, those of the ordinary Community especially, were Libere Tenentes, Freeholders of the King in Capite, or Military service, is beyond all doubt. Rex Vicecom. Bedford & Buks, salutem. Quia summonitionem factam Archiepiscopis, Episcopis, Abbat. Prioribus, Comitibus, Baronibus, Militibus, Libere Tenentibus, & aliis qui de nobis tenent in Capite per servitium militare vel Serjantia, &c.*
- F *Rex Vicecom. Northampton. salutem. Precipimus tibi sicut alias precipimus firmiter injungentes quod summoneri facias Archiepiscopos, Episcopos, Comites, Barones, Abbates & Priores, Milites & liberos homines qui de nobis tenent in Capite per servitium militare, vel Serjantiam, &c.*

Claus. 19 H. 3. M. 6. Dorf. Append. Record 14.

* See who the Omnes alii de Toto Regno were in the Explication of the word Regnum, &c.

Cl. 21 Hen. 3. M. 7. Dorf.

* Such as had Knights Fees, or part of Knights Fees that held in Capite belonging to their Benefices, as there are several Manors belonging to Rectors.

* See Answer to Mr. Peys. f. 126.

Pat. 54 Hen. 3. M. 7. De signo Crucis tradito E. primogenito Regis & 20. sibi Concessa.

Rot. Claus. 7 Hen. 3. M. 13. Dorf. Auxilium Concessum in subsidium Terræ Sanctæ. Append. Record 17.

Claus. 7 Hen. 3. M. 10. Dorf.

Cl. 26 Hen. 3. M. 7. Dorf.

Rex

Cl. 24 Hen. 3.
M. 2. Dorf.
Breve Placito-
rum de Fore-
sta.

Rex Vicecom. Bucks, &c. Sumone per bonos Sumonitores, Archiepiscopos, Episcopos, Priores, Comites Barones, Milites & Libere Tenentes, qui Terras vel Tenementa habent infra metas Forestæ, &c. There can scarce be any doubt made, but these were such **Libere Tenentes**, such *Freeholders* as above, or *Freeholders* of other persons in Military Service.

Rot. Cl. 9 H. 3.
M. 9. Dorf.

Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, libere tenentibus & omnibus aliis de Comitatu Eborum, cum Probiis Hominibus nostris de Regno nostro libertates concesserimus per Cartas nostras, &c. and these the same **Libere Tenentes**, being joyned with the same orders of Men. And note, *probi homines nostri* were the Kings *Tenents in Capite*.

There were Knights and Freeholders also in Military Service, which held of the Bishops, Abbats, &c. of the Earls, Barons, and other great Men. *Distingas omnes Milites & Libere Tenentes qui de eis tenent per servitium Militare & Balliva tua, &c.* See Record 14. and 15. in the Appendix.

Glanv. lib. 1.
cap. 10. 11.
lib. 9. c. 7.
The *Liberi Ho-*
mines which
served on Ju-
ries, were
Milites, and
Tenents in
Military Ser-
vice.
Ibidem, lib. 2.
c. 21.

These were the **Liberi & Legales homines**, the Freemen which *Glanvile* so often mentions; *Ut per quatuor Milites Legales de Comitatu & viceneto, Eligantur 12 Milites Legales de eodem viceneto qui super eodem die coram me vel Iusticiis meis ad locum illum parati recognoscere utrum R. vel N. Bajus jus habet in una hida terræ, &c.* And the finding out of Truth, and the Tryal so much depended upon these *Milites*, Tenents in Military Service, as it was a *Quere* in *Glanvils* time, That if there were no *Milites*, or not twelve to be found in the *Vicenage*, or the *Country*, whether or how the *Demandant*, or *Tenant*, could have right done them.

Cap. 12.

Magna Charta tells us, that *Affizes* of *Novel Disseisin*, and *Mort Dancestor*, shall be taken in the *Counties* by the *Iustices*, and Knights of the *Shire*, which afterwards dwindled into *Freeholders* of Forty Shillings per annum. Of these Men it is and their Services that *Bratton* says, They were so notoriously Free, that in *Writs* of Right it was never mentioned, because so well known, *Notandum in Servitio Militari, non dicitur per Liberum Serbitum, & ideo, quod constat, quia tale Serbitum liberum est.* *Cragius* says Knights Fees were of the greatest dignity amongst all Nations, and were preferred before all other kinds of Fees. *Feudi Militaris dignitas Maxima est, & apud omnes nationes, omnibus aliis feudozum generibus prefertur.*

Lib. 5. cap. 2.
fol. 328. 2.

Military Ser-
vice the most
Free Service.

Cragi de
Feud. f. 60.

These were the Men that were *Jurors*, and made *Presentments* in pleas of the Crown, according to the forms of proceeding in them.

Forma Procedendi in Placitis Corone Regis.

Imprimis eligendi sunt 4 Milites de toto Comitatu, qui per sacramentum suum Eligant duos legales Milites de quolibet Hundredo vel Wapentachio, et illi duo Eligant supra sacrum suum Decem Milites de singulis Hundredis vel Wapentachiis, vel si Milites defuerint, Legales et Liberos Homines, Ita quod illi Duodecim insimul Respondeant de omnibus Capitulis (all the Articles) de toto Hundredo et Wapentacco. Bracton says, Quatuor Milites Eligeant in quolibet hundredo 12 Milites vel 12 Liberos et Legales homines, si Milites non inveniuntur, to be Jurors in pleas of the Crown, Coram Iusticiariis in Comitatus. Fleta hath it, that these four shall chuse twelve de Beliozibus de qualibet Ballioia, that is, Hundred, or Wapentake.

Other Freeman there were in those times, but what their Quality was, further than that their persons and blood was Free; that is, that they were not Nativi, or Bondmen, it will give a knowing Man trouble to discover it to us. We find in every leaf, and almost every Entry upon that leaf of Domesday, Sotmen, et Liberi homines, Possessors of small parcells of Land, but what their quality was, and of what interest in the Nation, I shall discover upon another occasion. The freemen there, or Taine, Chegng, which are said to possess Baners, Towns, or great parts of Towns, very many whereof are found in the Countries bordering upon Wales, with this addition, et liber homo fuit, or potuit ire quo voluit, were the same with Milites, et liber homo attributed to such possessors was the same with Miles.

There were besides these liberi homines, Free-Tenents also (which perhaps might not always be Freemen.) King John, Anno Dom. 1202. by Galfrid Fitz-petre, Justiciary of England, wrote Letters to all his Earls, and Barons, to perswade, and induce them to collect the fortieth part of their Rents towards the Relief of the Holy Land, of every of their Towns, as it might be let to Farm by the year, et si in eadem villa fuerint per Servitium Militare tenentes dent Quadragessimam portionem modo predicto, si autem fuerint Liberi Tenentes similiter dent eandem portionem modo predicto, Computato redditu, quem Dominis suis solverint per annum, the Rent the Free Tenents paid to their Lords being discounted; which then if not the full, yet it was a considerable part of the True Value.

Free Tenements, and Free Tenents, besides those in Military Service, are mentioned in Magna Charta, Nullus distringatur ad faciendum majus Serbitum de Feodo Militis, nec de alio libero Tenemento, quam inde debetur. See in the Title Knights Fees, &c. for Fee Farms, and Frank Tenements, &c.

But these were not the Ordinary Freeman, or the bulk and multitude of the Freeman, or small Freeholders, who in those times were of no great esteem or value in the eye of the Law, for they, as well

as

Hoveden, fol. 423. a. n. 40. in the time of Rich. 1.

The Jurors in Pleas of the Crown were Milites, and Military Tenent, the same with Probi & Legales Homines.

Fol. 116. n. 3. Others which held half Fees, third or fourth part of Fees, &c. Lib. 1. c. 19. fol. 23.

Hoveden, fol. 471. a. n. 30.

Cap. 15.

LL. Ethelred,
c. 1.

Britton, c. 29.
p. 72. b.
These could
not be Probi
& Legales Ho-
mines.

Ibid. fol. 73. b.

Magna Char-
ta, c. 35.
Cokes second
Instit. f. 73.
Bracton, p. 124
b.

Ibidem.

Ibid. p. 72. b.

Ibid. p. 71. a.

Ten Groats
per annum
then, was
more than
Forty Shillings
per annum
now.

as the ordinary Freemen in the Saxons times, were all bound with Sureties to their good behaviors; Every Saxon Freeman had his Undertakers, that he should do every Man right, and make satisfaction for the Crimes he committed. The Freemen, Masters of Families, their Sons at Fourteen years of age, and all other Freemen, were cast into Decuries or Tithings; Hors pris Clercs & Chivalers et leur Enfans et Femmes, except Clercs, Milites, their Children and Women: That is, ten Freemen, or Free Pledges, were bound all for one another, and were to bring the offending person amongst them to Justice, or to make satisfaction for the Crime he committed, if they could not do it; The chief of these was called the Tithingman, or Capital Pledge, who, if he had not his Tithing full, that is, ten free Pledges so bound, one for another, he was to be amerced, and so were all such Freemen as ought to be in one Tithing or another, and were not, to be Amerced, and also such as received any Freemen, that ought to be, and were not in any Tithing, or that gave them Meat and Drink, were to be Amerced.

*Fiat autem * Uisus de frank-plegiis sic videlicet, quod pax nostra teneatur et quod Tithinga teneatur integra sicut esse consuevit.* Let the View of pledges or sureties for Freemen be made so that our peace may be kept. The main end of this Institution and Law was for keeping the Kings peace. The Franke plege or Tithing consisted of ten households, and these ten Masters of Families were bound every one for other, and for one anothers Family, that each Man of their Family should stand to the Law, or if he were not forth coming, that they should answer for the Injury or Offence.

The Courts in which the Misdemeanors of these Men were at first punished, but at length presented only, were the Sheriffs Turnes; which in process of time, for the ease of the people, were kept in every Hundred: The Stile of the Court was the View, or Court of Franc Pledges, or Freemen cast into Tithings, which View of Free Pledges was also for the ease of the people, granted to Lords of Maners by the King, to have the view of Tenents and Resiants within their Maners. All Freemen that lived within the Hundred, except Earls, Prelates, Barons, and Religious Men, ought Service, and were bound to appear at this Court held twice in the year. For though the Military Fees were sufficient Pledges for Military Tenents, yet they were bound to serve upon the Jury, which was to give in the last Presentment, to the Sheriff under their Seals, which were twelve persons of the most Sage, Loyal, or Legal and sufficient of the whole Hundred, chosen and sworn by the Sheriff, who were to take the Presentments of the chief pledges, and others upon oath, and after they had examined, whether those Presentments were true or false, accordingly, upon certain Articles, they gave in Presentments to the Sheriff. See more of this matter in Magna Charta, c. 35. Cokes second Institut. fol. 71. Fourth Instit. fol. 259. 261. Dultons Stat. 17 Edw. 2. fol. 108. Britton, c. 29. I think no sober Man will say, that these Freemen, or Freeholders of some small parcels of Land, to the value perhaps, in those days, of some Ten Groats per annum, were members of our Common Councils, or Parliament.

Magnates,

Magnates, & Proceres.

FOr the meaning of these words, I shall refer the Reader only to these Writs of Summons here cited, 18 Ed. 1. f. 149. E. Cl. 22 Ed. 1. M. 6. Dors. f. 151. C. Cl. 28 Ed. 1. M. 3. Dors. f. 152. A Cl. 20 Ed. 2. M. 4. Dors. f. 157. F. *Bundel of Writs of Summons*, 26 Ed. 3. f. 158. D. And to Mr. *Fitz-Harris* his Arraignment and Plea, fol. 4. A. D. 1681. Until the Scriblers can make it good by Authentick Proof either of Record or History, that these words are applyed to ordinary Freeholders, and that they are frequently intended by them, as they often insinuate under such Expressions as these, *Magnates & Proceres*, words of large extent, words applicable to Commons, &c.

Præpositus & Quatuor de unaquaque Villa.

JUstitiariis Forestarum Itinerantibus, præceptum est ex parte Regis, ut per singulos Comitatus per quos ipsi ituri essent, convenirent coram eis ad placita forestæ Archiepiscopi, Episcopi, Comites et Barones, et omnes Libere Tenentes, et de unaquaque Villa Præpositus et Quatuor Homines ad audienda præcepta Regis, &c.

Hoved. f. 445.
b. n. 40. A.D.
1198. 9 Ric 1.

Rex Vicecom. Bucks, salutem. Sumone per Bonos Sumonitores Archiepiscopos, Episcopos, Priores, Comites, Barones, Milites, Libere Tenentes qui Terras et Tenementa habent infra Metas Forestæ nostræ in Balliva tua. Summone etiam de qualibet Villa Comitatus tui infra Metas Forestæ nostræ Quatuor Homines cum Præposito Villarum, &c.

Cl. 24 Hen. 3.
M. 2. Dors.
Breve placitorum de Foresta.

D This Præpositus is commonly taken to be the Constable, or as in some places they call him, though very ignorantly, the Headborough of the Town: But 'tis a great mistake; for he in *Pleas of the Forest*, at the County-Court, and Sheriffs Turn, represented the Lord of the Maner, whereof he was the Præpositus, and he was no other than the Lords Reeve, or as now called, his Bayliff, one that managed his Maner and Lands for him. * Sometimes he is called *Serbientes Villæ*, and if more Lords than one in a Town, then *Serbientes Villæ*. The Lord answered for the Town where he was Resident, where he was not his Dapifer or Seneschal, if he were a Baron; but if neither of them could be present, then the Reeve, and four of the best Men of the Town. Si quis Baronum Regis vel aliorum Comitatus secundum Legem interfuerit, Totam terram quam illic in Dominio suo habet * acquietare poterit. Eodem modo est si Dapifer ejus legitime fuerit, si uterque necessario desit, Præpositus et Sacerdos, et Quatuor de Veliozibus Villæ assint, pro omnibus qui non erant nominationem ad Placitum somoniti. This Officer by the name of Præpositus, or Regis Præpositus, often occurs in *Doomsday* in the Description of several Villages, and as a Manager of the Village as in the Kings Hands. I have now by me an Account of the Præpositus of *Winebodesham*, a Town in the Hundred or Liberty of *Clark 103* in the County of *Norffolk*, once belonging to the *Abby of Ramsey*, by the Hand I

* See here
Record 17.

LL. Hen. 1.
Cap 7.

* i. e. Secure
it from distress.

gues it to have been made about the time of *Edward the Third*, which begins in the *form* following.

Wynbodesham

Anno Domini Ranulphi Vicefimo die Sancti Edmundi Regis, reddit Johannes Præpositus de Wynbodesham Compotum suum à Festo Sancti Michaelis Anno ejusdem Decimo nono usque ad Festum Sancti Michaelis proximè sequens, &c. And then he sets down the *Rents received*, and what *Money* taken for *Goods*; next what *Expences*, and what laid out for *Goods* bought in; and then afterwards gives an account what was then remaining in the *Grange*, what *Wheat*, what *Rye*, what *Barley*, *Oats*, *Pease*; What *Stock* of *Great Cattle*, what *Sheep*, *Hogs*, &c. What in the *Larder*, what in the *Diary* or *Dairy*, what *Geese* and *Ducks*, what *Hens*, what *Eggs*, what *Utensils* in the *House*, and *Implements* of *Husbandry* abroad, and this gives us the *Certainty* of the meaning of the word.

A

Knighton, Col.
2557. n. 4. Ar-
tic. 7. A. D.
1330.

Amongst the *Articles* against *Roger Mortemer* this was one, *Ensy le dit Roger de Mortimer, in Descervance manere fist les Chivalers dez Countez al dit Parliement al Roy de Chescune vile Dengleterre que Respont per Quatre & le Probost En Eyr une homme de armes à leur Costages en sa Guerre de Gascoyn par une an la quele charge le dit Roger avoit Compasse, &c. en Destruction de Peuple.* Also the said *Roger* in deceitful manner made the *Knights* of *Counties* to charge a *Man at Arms* upon every *Town* that answered in the *Iter* by *four* and the *Beebe*, to be maintained one year in the *War* of *Gascoyn*, &c.

B

*That is, when
the Itinerant
Justices went
their Circuit.

C

What this *Præpositus* or *Beebe* was, or for whom he and the *four* came to answer, is scarce now known. They come to answer for the *Town*, as they believe, and of meer course, the *Lord* never taking notice of them, nor they of him. I have by me an *Extract* of a *Turn* holden for the *Liberty* of *Clacklos* above-mentioned, which was holden *April* the fifth, 3 *Car.* 1. in which the *Beebe* and *four* for every *Town* were Fined 12 *d.* a *Head*.

D

Clacklos-Hill. *Extract* of the *Turn* there holden on *Thursday* the fifth of *April*, *Anno Caroli, &c. Terzio, A. D.* 1627.

Sotherie. Of the *Four* and the *Beebe* there, for *Default* of *Suit* of *Court*, 5 *s.*

E

Helgay. Of the *Township* there for *Default* of *Four* and the *Beebe*, 5 *s.*

Stoke cum Wretton. Of the *Township* there for *Default* of three of the *Four* and the *Beebe*, 3 *s.*

And so more or less according to the *Appearance* of all the *Towns* in the *Hundred*.

F

Being very inquisitive to find out what sort of *Persons* now made their *Appearance* in the *Turns* of this *Liberty*, and how they were sent thither, I received this *Exact Account* from an *Ingenious Friend* that lives within it.

S I R,

S I R,

A **I** Hereby present you with the exactest Information I could obtain concerning the Manner of keeping the Court called the Sheriffs Turn within our *Hundred of Clacklos*, tho' I believe the present practice to be very different, from what it was in its first Institution: Generally there are four Men and a Reeve warned out of every Town to appear, the four Men are now taken or sent promiscuously, such as are best at leisure to attend, though formerly every House did observe its course, and keep its turn yearly until they passed through their Respective Towns, some Houses finding a Man and half, sometimes two Houses joyned towards sending one Man; but this order being neglected, if they send any four persons with a Reeve they discharge their Duty. The Reeve I suppose was the Bayliff of the Lord of the Maner, or chief Tenent dwelling in the Maner House; for as to the later it is observed still in some Towns, the Maner house constantly finding one Man whom they term a Reeve. The Constables are no more concerned in this Business than any other Inhabitants, only upon the neglect of any Town for non-appearance, the Bayliff of the Hundred takes distress of the Constable for the several Forfeitures made, which is twelve pence a Man. The place of calling this Court is at the Hill called by the name of the Hundred.

C Sept. 12. 1683.

D The very same Account I received from the Bayliff of the Hundred; and I have perused several ancient *Suit-Rolls* now in the possession of Sir Thomas Hare Baronet, the Lord of this Liberty, by which it appears, that all the Lords of Maners within the Liberty or their Tenents, and all Men of considerable Estates there, were Suitors to the Turn, to inform the Steward what Crimes had been committed in their respective Towns contrary to the Laws and Peace of the Nation. And as in process of time inconsiderable Men appeared at County, Triage, Wapentach and Hundred Courts, by reason of the great Suitors having * Liberty to make their Attorneys, so it might happen in the Sheriffs Turn by the Negligence or Connivance of the Sheriff, or Stewards of Liberties, or for that the pleas might be removed to the Assizes before the Justices that came twice in a year.

* See Stat. of Merton, c. 10.

E The *Præpositus* or Reeve according to * *Fleta* was an Officer under the *Seneschal* or Bayliff, who looked after the Kings or other Lords Affairs, in their Villages, as Tillage, Cattle, Pasture, &c. where see his Office described. *Misit Rex literas ad omnes Vicecomites Regni Anglie præcipiens, ut de singulis Dominicorum suorum Villis*, (such Towns as they kept in their own hands) *Quatuor legales homines cum * præposito apud sanctum Albanum pridie nonas Augusti facerent Convenire ut per illis & alios ministros suos de Damnis singulorum Episcoporum, & ablatis certitudinem Inquireret.*

* Lib. 2. c. 76. p. 164.

Mat. Paris. f. 239. n. 20.

* These were the Bishops Reeves, that managed those Lands for them.

H 2

Probi

*Probi Homines, Probi & Legales Milites,
Probi & Legales Homines.*

PROBUS Homo in such times as the words were understood, did not signifie an ordinary, or (as now they call him) an honest, though inconsiderable ignorant Country, or other Man; but on the contrary, the *Probi Homines* were *Famous, Stout, or Noted Men, Nominales, Men of Renown, or great Report, Integrity and Resolution.* *Mauritius Giraldi filius Stephanidæ frater uterinus, vir probus & prudens.* This was Maurice Fitz-Girald, one of the first *Adventurers* in the *Conquest of Ireland.* Peace was made between the Kings of *England and France*, as the same Historian tells us, *interventu proborum Uirorum & præcipue Philippi Flandrensum Comitum.* After the Victory of King Henry the Second over the Scots, and Earl of Leicester, the same Historian speaking of the flourishing condition of England, says it happened, *præsidente probò prudentique viro, & inter utramque fortunam fidelissimo* (to the Father against the Conspiracy of his Sons and many of the Nobility) *Ranulpho Glanvillensi.* To whom he gives these Additions and Epithets, and names him *Virum magnificum Ranulphum Glanvillensem principalem & præcipuum Regis & Regni Consiliarium & Angliæ totius Iusticiarium.*

Probi Homines were not only ordinary Men, void of such notorious Crimes as were under the correction of the Law; But *Probity* implied *Activity, Understanding, Ability, and Virtuous Actions.* *Johannes de Curci de Dublinensium familia, paucos sibi alliciens, sed probos, sed strenuos, sed electos cum Militibus viginti Duobus & aliis 300 Ultoniam aggreditur.* Hugo de Lacy vir *probitate pollens & prudentia*; he was than Governor of all Ireland under Henry the Second, *inter Prætores Regis Anglorum qui erant in Hibernia, Hugo de Laci præcipuus & præpollens habebatur,* Guliel. Neubrig. lib. 3. c. 9. *Esbernus frater Absolonis Archiepiscopi, probitates & Gesta majorum Commemorando plures ad Iter Hierosolymitanum animaverat.* Mat. Paris speaking of Edward the First, *Erat Edwardus revera vir Magnæ probitatis et audaciæ fortis insuper supra Modum.*

The very learned Du Fresne in his Glossary says, *probus* is the same with *preux* in French, which signifies *Wiles animo valens*, a valiant Knight, or Soldier. Cotgrave translates it also, *Loyal, Faithful, Sincere, Honest, Virtuous, Worthy*, likewise *Discreet, Skilful, Ready.* And the same Glossarist says that *probitas* is the same with *Generositas*, or *animi magnitudo*; Generosity and Greatness of Mind. The Reader may see his Proofs for further satisfaction.

It will add much to the discovery of what the *Probi et Legales homines* were, by noting what the *Probi et Legales Milites* were. In the Summons to Parliament, Cl. 49. Hen. 3. To the Sheriff, *Ven re facias Duos de Discretioribus et Legalioribus Militibus ejusdem Comitatus, &c.* and in the Writ for their Expences, ibidem, m. 10. Dorset. their Reasonable Expences were to be Taxed *de Consilio Quatuor Legalium*

Girald. Cambren. Hibern. Expug. lib. 1. c. 3. f. 761. n. 30

Ibid. c. 13. f. 767. n. 40.

Ibid. c. 44. f. 782. n. 30.

Ibid lib. 2. c. 31 f. 805. n. 50. f. 806. lin. 1.

Ibid. c. 16. f. 794. lin. 1. &c.

Ibid. c. 17. f. 79. n. 30.

Kirchman. de professione Danorum in Terram Sanctam, c. 5. Paris, f. 1005. n. 30.

- Legalium Militum;** Citizens and Burgeses were to be of the same Quality. Cl. 49. Henry the Third. *In forma prædicta scribitur Civibus Eborum, Civibus Lincoln et Ceteris Burgis Angliæ, quod mittant in forma prædicta Duos de Discretioribus, Legalioribus, et Probioribus tam Civibus quam Burgensibus suis. Rex Vicecom. Eborum, &c. Tibi præcipimus, &c. Duos de Probioribus et Legalioribus Militibus Comitatus tui eligi facias, Cl. 25. Ed. 1. M. 6. Dorf. Rex Vicecom. Suffex, salutem. Præcipimus tibi quod diligenter inquiri facias in pleno * Comitatu tuo per sacramentum Duodecim de Legalioribus et Discretioribus Militibus Comitatus tui, per quos rei veritas melius sciri poterit (this was the end and intention of the Institution of Enquests and Juries) Quas Consuetudines et quas Libertates Dominus Johannes Rex pater noster, habuit in Balliva sua die qua Guerra incepit inter ipsum et Barones suos Angliæ, &c. Cl. 7. Hen. 3. M. 14. Dorf. in the fourth of Henry the Third, Carucage was to be collected by two de Legalioribus Militibus Comitatus. See in Appendix Record 12. Rex Vicecom. Huntingd. &c. Tibi præcipimus quod de singulis Hundred. Comitatus prædicti venire facias coram dilectis et fidelibus nostris Hen. de Bathonia, et Will. de Wiltonia quos ad hoc Justiciarios nostros assignavimus in Comitatu ad diem et locum quos prædicti fideles nostri tibi scire facient, duodecim tam Milites quam alios Liberos et Legales Homines per quos hujusmodi Inquisitiones, &c. Cl. 44 Hen. 3. M. 14. Dorf. Rex, &c. Tibi præcipimus, quod venire facias coram nobis à die Sancti Johannis in tres septimanas ubicunque fuerimus in Angliæ, Decem et Octo tam Milites quam Liberos et Legales Homines de Comitatu tuo per quos plenius Certiorari possumus super Articulis, &c. Cl. 51. Hen. 3. M. 4. Præceptum est Vicecomiti Cornubiæ, quod assumptis secum Duodecim de Legalioribus Militibus in Comitatu suo in propria persona sua accedat ad Terram Richardi Regis Alemanniæ in Tybosta et Bravel, et Terras Henrici de la Pomerey in Tregony, et per eorum Sacramentum fieri faciat Perambulationem, &c. Cl. 51 Hen. 3. M. 7. Rex dilectis et fidelibus suis Richardo de Fokerham et Osberto de Berford, salutem. Sciatis quod assignavimus vos ad Inquirendum per sacramentum proborum et Legalium Hominum de Comitatibus Salop. Stafford. et Cestr. per quos, &c. de quibusdam Juribus, Libertatibus, et rebus aliis nos et statum nostrum, necnon et statum Communitatis Comitatum prædictorum Contingentibus; et insuper de factis et gestibus Vicecomitum et Ballivorum quorumcunque in Comitatibus prædictis, prout in Articulis quos vobis inde Tradimus plenius Continetur, &c. These Articles were in Number 34, and about such Matters as it was impossible for ordinary Country-Men ever to be instructed in, or understand them.*

* That was in a full County-Court.

- Old Glanvil often mentions **Milites Legales**, that were to be summoned upon Juries, and **Liberos et Legales Homines** frequently, so the old Register, as also **Probos et Legales Homines**. What can be meant by these Restrictions upon Knights? and by these words **Probi, Discreti, Legales**? but that they were to be Knights of the best Estates, the best Understanding, most Integrity and Knowledge in the Affair they were to be employed: For many in those times there were, that were not such, when every Man that was Owner of a Knights Fee, or Twenty Pound per annum, might be compelled to be a Knight, there must needs then have been many of them unfit for the dispatch of publick Business. And what can be meant by **Probi, Liberi et Legales Homines**, and the Restrictions made by those words, but that they

they were to be Knights Fellows, and after *Knights*, Men of the best Estates, of the best *Understandings*, and most *Knowledge* in their Counties, and most fit for the *Dispatch* of publick *Business*; according to the meaning of the words *Duodecim tam Milites, quam alios Liberos & Legales Homines*, which were certainly *Tenents* in *Military Service*, as is clear from the word *alios*.

And it seems to me that the *Legales Milites* and the *Legales Homines*, in those times had not that *Epithet* given them, for that they were *within the Law*; that is, because they were not *Out-lawed*, *perjured*, &c. but because they were such as the Law by constant *usage* then required should serve on *Inquests* and *Juries*, that is, the most *discreet*, *just*, *knowing* and *resolute* Men in the Country. Nor is it credible that any Freeman that then perhaps might be possessed of Ten Groats, Five or Ten Shillings by the year of *Freehold*, (a better Estate than our Forty Shillings a year now) were ever intended to be part of the *Probi & Legales Homines*, or reckoned amongst them, when they were bound to the Peace; and the Government and Law in those times did not think it safe for the Peace of the Nation to trust them with their own behaviour, seeing all such *Masters of Families* as these, were bound one for another, and for all their *Servants*, *Children*, and *Sojourners* by Tens. The *Probi Homines* then, were the best, chief, most *knowing*, and of the greatest *Integrity* of those *Orders* and *Degrees* of Men, to whom, and at the time the word *probus* or *probi* was very frequently, or if but seldom annexed, whether they they were *Barons*, *Knights*, *Freeholders* under that Degree, *Citizens* or *Burgesses*.

These inconsiderable Men were forced upon Jury-work; they went not, nor were they forward to go to the *Size*, and *Sessions*, (as they call them) upon which they now value themselves as the *Governors* of the Nation; but by *Knavery*, *Oppression* and *Bribery* were driven thither. For the *Military* and *Rich Men* finding it *troublesome* and *expensive*, threw the *Burthen* (as they always did) upon such as were not able to bear it, by *bribing* the *Sheriffs* and *Bayiffs* to omit them, and make their *Returns* of such sorry silly People as the Law never did, nor could intend for this truly *great Service*, which they could not understand. These ignorant Men were also forced upon this *Employment* they were not fit for, by the *Villany* and *Oppression* of *Sheriffs*, their *Bayliffs* and *Ministers*, by extorting *Money* from them, that they might be *spared*, and permitted to remain at home. And for this the Statute of *Westminster* the Second is good Authority, made in the 13th of *Edw. 1. A. D. 1285*. * Forasmuch also as *Sheriffs*, *Hundreders*, and *Bayliffs* of *Liberties*, have used to grieve those that be in *subjection* to them, putting into *Juries* and *Assises* Men diseased and decrepid, and having continual or suddain *Disease*, and Men also that dwelled not in the Country, at the time of the *Summons*, and summon also an unreasonable *Multitude* of *Jurors* for to extort *Money* from some of them, for letting them go in peace, and so the *Assises* and *Juries* pass many times by poor Men, and the rich Men abide at home, by reason of their *Bribes*: It is ordained that from henceforth, That in one *Assise* (i. e. *Jury*) no more shall be summoned than Twenty Four; and Old Men above Threescore and Ten Years, being continually sick, or being diseased at the time

* What we call Freehold now, was not in those times really esteemed such, the Land in Military Tenure was, had chiefly that reputation.

* C. 38.

time of the Summons, or not dwelling in that County, shall not be put upon Juries of petit Assises; Nor any shall be put on Juries of Assises, though they ought to be taken in their own Shire, that may dispend less Land than Twenty Shillings yearly at the least; (That is, the twentieth part of a * Knights Fee.) And if such Assises and Juries be taken out of the Shire, none shall pass in them but such as may dispend Forty Shillings of Land by the year at the least: Except such as be * Witnesses in Deeds, or other Writings, whose presence is necessary so as they be able to travel.

* That is now
10 l. per An-
num.

* Antient Ju-
ries consisted
of such persons
that knew and
understood
the Contro-
versie, and
therefore
were called
Jesses, and
their Verdict
Testimonium.

This Law not being thought a sufficient Provision against these Oppressions, there was a Statute made in the 20th of this King, and in the year 1292. the Preamble whereof runs thus; For as much as the Lord our King, by the continual and grievous complaint of his inferiour people, doth perceive that divers persons being of least ability of this Realm, are many times intolerably troubled by Sheriffs and their Bayliffs, Bayliffs of Liberties, which Impanel them to the Recognizance of Assises, Juries, Inquests, and Attaints triable out of the Shires where they be dwelling, and do spare the rich people, and such as be more able, by whom the truth of the matter might be better known, &c. And then 'tis provided That None pass out of his proper County or Bayliwick, that hath not One Hundred Shillings per Annum; (which was the fourth part of a Knights Fee) And none to be impanelled within the County that had not Forty Shillings by the year.

In the Statute called *Articuli supra Chartas*, C. 9. made in the 28th of this King, A. D. 1300. this Corruption having not been sufficiently prevented; The King willeth and commandeth, That no Sheriff nor Bayliff shall Impanel in Inquests nor in Juries, over many persons, nor others, nor otherwise than 'tis ordained by Statute, and that they shall put on those Inquests and Juries, such as be next Neighbours, most sufficient, and least suspicious; that is to say, not suspected to favour one party or other.

And in a Statute made at Westminster, in the 42^d of Edw. 3^d. A. D. 1368. C. 11. 'tis provided, That in all manner of Panels arrayed by the Sheriffs, or Bayliffs within Franchise, shall be put the most substantial people, and worthy of credit, and not suspect, which have best knowledge of the truth, and be nearest.

For the same reasons, and by the same corrupt practices of Sheriffs and Bayliffs, this inferior sort of Men were driven to the County Courts, and by that means, as being forced to be Suitors there, became in process of time Electors of Parliament-Men, and by their numbers enabled to out-vote Men of Worth, Knowledge and Integrity, and of the greatest and best interest in their Country, especially since the Reign of Henry the Eighth. That a third part of the Lands in the Nation that belonged to Monasteries and Religious Houses were made to be of Soccage Tenure, which is now accounted Freehold, have been divided in small parcels amongst very ordinary Men.

Those that season the Noddles of these Men with strange Liberties they are born to, That the Power of Kings, and Origin and Authority of

of all Government in the World is derived from them; and persuade them 'tis their *Birth-right* to tread upon Kings, to set up, and pull down what Government they please; or that the Common Law of *England* hath invested them with *Uncontroulable Privileges*, and *Sacred Rights*, did either not know, or understand the Law of *Frankpledges*, in practice here both in the *Saxon* and succeeding times, nor did they ever dream or understand they were forced and driven into most of these great *Advantages* they pretend to; which better Men than themselves cast upon them as a *Burthen*, intending thereby to make them their *Drudges*. A

Regnum & Sacerdotium; Regnum: Omnes de Regno; Alii de Regno; Homines de Regno; Homines Nostri de Regno. B

Secular and Ecclesiastick Government and Power are meant and expressed by those words *Regnum* and *Sacerdotium*, and they occur often in old Historians: *Petrus de Marca*, Archbishop of *Paris*, hath written a large Book in Folio, *De Concordia & Discordia inter Regnum & Sacerdotium*, Pat. 16. Johan. Parte Prima, M. 1. Dorl. N. 3. *A tempore Orta Discordia inter Regnum & Sacerdotium*; and so Ibid. N. 4. Yet the Bishops and great Clergy, such as were Barons, or held in *Capite*, were comprehended in the word *Regnum*, or under the Secular Government in respect of their *Temporalities*, and were a Ministerial part of it. In *subsequenti Nativitate Domini Regnum Anglie ad Curiam Regis Londonie pro more convenit, & magna solemnitas habita est & sublimis*. The *Regnum* here is to be understood of the Government of the Kingdom, not of all the *Inhabitants* of the Kingdom, or the *Kingdom*, as it is a place wherein the *Inhabitants* are Resident: but by *Regnum* is to be understood both *Temporal* and *Spiritual* Barons, great and small, the Kings Justices, or any others that exercised any share or Ministerial part of the Government, as perhaps all these did, one way or other, by coming to great Councils or Parliaments, &c. All this is evident from the words of the *Quadrupartite History* of the Life of *Thomas Becket*. *Rex apud Clarendune, Regnum Convocat Univerfum: Quo cum venissent Præsules & Præeres exegit Rex instantius ut sibi promissa solverentur, &c.* This *Regnum Univerfum*, the whole Kingdom here mentioned, was only the *Præsules & Præeres*, that is, the whole *Saronage*, called together by the Kings Writ, or a great and full meeting of the *spiritual* and *Temporal* Barons both great and small. And that this was the meaning of *Regnum Univerfum*, *Mat. Paris* puts it out of doubt. *Anno 1237. (the One and Twentieth of Henry the Third) Tenuit Rex Curiam suam ad Natale apud Wintoniam, misit autem Continuo per omnes fines Anglie litteras Regalias, precipiens omnibus ad Regnum spectantibus, videlicet Archiepiscopis, Episcopis, Abbatibus, & prioribus installatis, Comitibus & Baronibus, ut omnes sine Omissione in Duobus Epiphaniæ Londoniis convenirent, venit igitur diebus Sancti Hillarii Londonias infinita Nobilium multitudo,* C D E F

Edm. r. f. 105.
lin. 5. circa
A. D. 1129.
1e ap. Hen. 1.

Quadrilog. l. b.
1. c. 26.

F. 435. n. 1c.

titudo, viz. Regni Totalis Universitas. In the year 1237. the King held his Court at Christmas at Winchester, and forthwith sent his Writs through all parts of England, commanding all that belonged to the Government, to wit, the Archbishops, Bishops, Abbats, Priors installed, Earls and Barons, to meet without Omission at London in the Octaves of Epiphany, to Treat about the Kings Business which concerned the whole Government. Therefore on St. Hilaries day came to London an infinite number of Nobles, that is to say, the whole University of the Government, or Kingdom. Here we see who the All were that belonged to the Government, only the Archbishops, Bishops, Abbats, Priors, Earls and Barons, and that they were the infinite Multitude of Nobles, and whole University of the Government or Kingdom.

Hence we know the true meaning of those words in the last Chapter of Magna Charta; Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, Milites, Liberi Tenentes & omnes de Regno nostro deberunt nobis quinto-decimam partem omnium Mobilium suorum, for granting the Liberties in both the Charters. The omnes de Regno here were the same with the omnes ad Regnum spectantes above, the Regnum, or Government, the Communitas Regni, the Totalis Regni Universitas, the Infinita Multitudo Nobilium; and also gives us the meaning of those words in *cl. 19 Hen. 3. M. 6. Dorf. Rex Vicecom. salutem. Scias quod Comites & Barones & omnes alii de toto Regno nostro, &c. concesserunt, &c. Which are further explained by a Record upon the same Roll, and about the same Business. *cl. 19 Hen. 3. M. 6. Dorf. Rex Vicecom. suffex, &c. Sciatis quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones & omnes alii de Regno nostro Angl. qui de nobis Tenent in Capite, nobis concesserunt, &c. Here the omnes alii, de Regno nostro, were the omnes alii qui de nobis Tenent in Capite; which were the Regnum, or Communitas Regni, as hath been evidenced over and over. Rex omnibus, &c. Cum venerabiles patres G. Eborum Archiepiscopus Anglia primas, & alii Praelati, Magnates, Milites, Libere Tenentes, ac omnes alii de Regno nostro nobis nuper in Articulo necessitatis, Servitium fecerunt & Subsidium, &c. Pat. 48 Hen. 3. N. 5. These omnes alii de Regno were the same with the other; and otherwise it could not be, for by omnes de Regno, or omnes alii de Regno, the Inhabitants in general could not be understood, for they never were summoned, the Hundreth part of them to meet in great Councils, 'twas impossible they should all meet: and perhaps not above a fourth part paid to this 15th, if we consider how many Servants, Villans, Bondmen, and such people there were then in the Nation that paid nothing. Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus & omnibus aliis de Comitatu Kancie, &c. Sciatis quod Praelati, Comites, Barones & Ceteri Magnates de Regno nostro concorditer pro se & pro Tota Communitate Regni in pleno Parlamento nostro nobis concesserunt Quadraginta Solidos de singulis Feodis Militum in dicto Regno, &c. This Writ could not be directed to all the Men in Kent, but to all such as paid Scutage; for not a fortieth part of them were Tenants in Capite, or Military Service; and therefore omnes Alii must always in Records be understood with a reservation or restriction to the Matter and Business intended and designed in and by that Record. And those words omnes Alii signifie no more than the words in many Writs or Warrants, and other Writings, All whom it may concern.

* Append.
Record 14.

* Append.
Record 15.

Omnes de Regno are often to be taken in the same sense as we see *Omnes de Regno* many times are, especially if the words *Noſtri* or *ſui* be joyned with them. They do not generally ſignifie all the Kings Subjects, but frequently the Tenents in Capite only. So in other Nations, *Homines Appellari Capere, Maſalli & Clientes qui ratione Beneficiorum & Feudorum Dominis ſuis, ſpeciali ad id facta profeſſione, quæ ex hoc Hominium vel Homagium dicta eſt, Fidem & Seruitium, ſeu Militie vel placitorum aut quodvis aliud debebant: Quia quidem Notione vocem Homine Conſuetudines noſtræ Municipales paſſim uſurpant. Du Fresne in Verbo Homines.*

Sapientes, Wites, or Witen.

Which moſtly ſignifie Noblemen, or great Lawyers; *Wita* in *Somners Saxon Dictionary*, is firſt turned *Optimas*, a Nobleman, and then *Sapiens*, a Wiſeman. In the *Laws of King Ina* it is ordained, That if any Man fought, or ſtruck another in the Houſe of an Alderman, or any other Illuſtrious Noble *Wite*, Great Man, or Wiſeman, on other *Gerbungenes Witan*, he was puniſhed ſixty Shillings. In the *Laws of Edward the Confessor*, Aldermen were called *Seniores, non propter Senectutem cum quidam adoleſcentes eſſent, ſed propter Sapientiam*; Not for their Age, when as ſome of them were Young Men, but for their Knowledge and Wiſdom. Hence from *Sapientia* the Aldermen were called *Sapientes*, Knowing, or Wiſemen.

The General Council at *Ænham ab Æthelredo Rege Editum*, was called by King *Æthelred*, *Accerſitiſque Episcopis, & Univerſis Anglorum Optimatibus*, having ſummoned the Biſhops and all the Chief Men, and the Title of the Laws is *Se Witena Geræðneſſan, Decreta Sapientum*, The Decrees of the Wiſemen. And many of the Chapters begin thus, And *Witena Geræðnes* is, c. 1. 5. 6. 7. and the Decree of the *Wites* or *Wilemen* is, &c. *Decernunt Sapientes, Qu habbe ic Funden mid them Witum the æt Earceſtre mid me Wæron Co Widdum Wintre.* Now I found with thoſe *Wiſemen* which were with me at Exceſter at Chriſtmas, &c. In an exchange between King *Edgar* and the Monastery of *Ely* for *Digun*, and *Teaſlea*, that is, *Ditton* and *Cheveley* in *Cambridgeſhire*, after all the Biſhops and Abbats had Witneſſed and Corroborated the exchange, *Eglaſ* ſigns it thus, *Ego Eglaſ Comes, ratum Duxi ſtabilire Sapientum Decretum, Hiſtor. & Privileg. Eccleſ. Elienſ. penes Doct. Gal. p. 117. b. Poſt Obiitum Edgari Regis dum eſſent Rex Edwardus, & fere omnes Sapientes ſui, apud Kyngſtune Rogavit Egelmwinus Alderman Episcopum Æthelwoldum, &c. Ibid. p. 63. a.* Theſe *Sapientes* were his Aldermanni & *Caini*, his Aldermen, Dukes, Earls and Thegns.

Æthelwoldus Episcopus emit Grantedene pro Ducentis Aureis ab Henrico de Waretinge, coram Teſtimonio Edgari Regis & Alſeri Alderman. & Egelmwini, & Brythnoth, et Alſrici Cyld et Ringulſi, et Thurveti, et aliorum Sapientum qui tunc aderant, Ibid. p. 62. b. All theſe ſix Wiſemen

Cap. 6. de pugna.

Sapientes.

Cap. 35. de Gereve. Aldermen or Noblemen.

Spel. Concil. f. 510. 53.

Leges Æthelſtani, Lan. b. f. 53. n. 69.

men are Witnesses to the Charter of Priviledges granted by King Edgar to the Church of Ely, in the year of Christ 970, and of his Reign the 13th, and they sign thus, Aifere Dur, Egelwine Dur, Wundroth Dur, Pringulph Minister, Thurferth Minister, Alric D. n. Ser, Ibid. p. 83. b. 85. a. p. 85. b. 87. b.

A Bede, in his Ecclesiastical History, tells us, That Paulinus labouring with Edwin King of Northumberland, to receive the Christian Faith, he resolved first to consult *cum amicis*, Principibus, et Consiliariis suis, with his Friends, Princes and Counsellors, &c. which in the Saxon Version of Bede, done by King Alfred, are thus expressed; That he wold *Mid his Freondum*, and *mid his Ealdrimannum*, and *mid his Witum* Spere on Gerheabt habban. Verbatim, That he would with his Friends, and with his Aldermen, or Princes, with his Wites or Counsellors speak and advice have. Here we see Principes turned by Aldermen, and the Kings Counsellors by Wites.

Lib. i. c. 13.
f. 141.

Counsellors.

B After in the Life of King Alfred reports, That he being accustomed to Rehear Causes, which in his absence had been heard and adjudged in his Kingdom; admiring the Ignorance of his Earls, Preests and Ministers (Thegns) commanded them either forthwith to lay down their Places of Judicature, or to apply themselves *Sapientiae Studiis*, to the study of Knowledge, or of the Law. Here we see again who had the Title of Sapientes, namely the Judges, that is, the Comites, Praepositi, et Ministri, or Thegns, for these last were the Seminary of Nobility, or Great Officers, Civil, Military, and Ecclesiastick amongst the Saxons. In a case so perspicuous I shall produce but one or two Examples: King Edgar having ejected the Clercs and restored Monks to the Monastery of Malmsbury, and by Charter made Alfic Abbat thereof, restored also to that Monastery a Parcel of Land, with Meadows and Wood belonging to it, which one Adelnoth a Contentious Person, had unjustly possessed himself of. But (*Subili deceptione à Sapientibus suis audita*) his subtle Pleadings being heard by the Kings Judges (for so Sapientes must be rendred here) in the presence of the King, notwithstanding his lying Evasions, he was convinced, and the Land returned to the Monastery.

Fol. 21. n. 20.
30.

Sapientes were
Judges, Earls,
&c.

Ingulph. Hist.
Croyl. fol 503
b. l. 7. & n. 10.

They were
Lawyers.

E So in the Auctuary to the 35 Law of Edward the Confessor, 'tis said, *Erant et alie potestates, et dignitates, per provincias et patrias universas et per singulos Comitatus totius Regni constitutae, qui Pereroches apud Anglos Vocabantur, scilicet Barones, Nobiles, et insignes Sapientes, &c.* And there were other Offices and Dignities established through all the Provinces, and every County of the whole Kingdom, which the English called Heret-ger, (in King Ina's Laws Here-Thegns) that is to say, Noble Barons, and Illustrious Wites, or Wisemen, called in Latini *Ductores Exercitus*, Generals of, or Great Officers in the Army. Greg. of Tours, Radovicus, and many of the Foreign Antient Historians, mention Sapientes as Lawyers, Counsellors, Judges; and amongst the Modern Foreign Lawyers, Hottoman and Calvin, say expressly, they were such. But perhaps not of the Inferiour Rank, no more than the Saxon Sapientes were, of which their Witenage-motes only consisted. And we have at this day the Judges, and Kings Council, and other great Lawyers, that sit in the Lords House, and are assistant to the Parliament, when there is occasion.

Camb. fol. 147.
Tit. de Here-
rochis.

In verbis.

Per

Grand. Cu-
stum. Norm.
c. 9.

Per Laudamentum Sapientum, i. e. Consilio Jurisperitorum Cujac. de Feud. Lib. 1. Tit. 17.

Les Juges sont Sages persons & autentique, qui en Court font Jugement de ce qu'ils Oyent sicome les Archevesques, Evêques, Chainons des Eglises, Cathedraux, &c. & les Abbees, les Prieurs Conventual, &c. The Judges are Sage or Wisemen, and Authentick, which give Judgment in Court according to what they hear, as Archbishops, Bishops, Canons of Cathedral Churches, Abbats, and Priors Conventual, &c. Of the Judges of the three great Courts, the Assize, the Exchequer, and Court before the Duke, where all great Matters were determined, 'tis said, Et est pour ce tel Sieges sont plus Grandement garnir de Sages Homes, que autres Sieges purquoi les querelles y povent Estre plus discreetment Determinees. What more frequent amongst us than the Sages or Wisemen of the Law? Accordingly the old Register of Writs, Printed by Rastal 1531. f. 9. a. Vide Opinionem Sapientum & Jurisperitorum quod nemo potest facere Attornatum, &c.

A

B

Tenentes in Capite de Rege.

BEside the Tenents in Capite by Military Service, and such as were bound to Military Service in and by their Tenure in Serjantie, there were small Tenents in Capite by small Serjantie.

C

Inter Com-
munia Term.
Sancti Mich.
47 Hen. 3. in
Scaccario.

Robertus le Mercer de Northampton reddit ad Scaccarium quatuor fena Equorum cum Clavis, pro quadam Domu quam tenet de Rege in Capite in Northampton.

Ibidem.

Will. Nowel reddit ad Scaccarium unum par Calcarium deaurat. pro quadam terra quam de Rege Tenet in Capite de Denton & Hockling in Comitatu Kancie.

Ibidem.

Magister Ricardus Cocus reddit ad Scaccarium unum par Chirothecarum pro quadam Domo quam de Rege Tenet in Capite in Judaismo London.

D

These were of small account, the Tenents in Military Service were only the considerable Men.

Vasallus.

E

Hotom. de
Verb. Feud.
Col. 962. D.
Ibid. col. 914.
D.
Ibid. de Feud.
Disput. Col.
810. F.

Vasallus diminuto Vocabulo, inferioris Ordinis Client, was a small Military Tenant, or Feudatary. Clientes in his Libris (meaning the Feudal Books) passim Milites et Feudatarii appellantur.

Vasallorum conditio tota non modo Libera atque ingenua, verum etiam plane Militaribus erat, a quo vita genere servos omnes sub Pœna Capitis arceri nemo Mediocriter quidem eruditus ignorat.

Ibid. Col. 811.
B.

Propria, perpetua, & ordinaria Vasallorum conditio hæc esset, ut simulatque Bellicum insonuisset cum Armis decoris et Equis Militaribus præsto suis Patronis essent.

F

Ibid. in Feud.
Commentar.
Col 771. B.

Feudum non ipso Jure ob Vasalli crimen patrono committitur, sed Patrum sententia causa cognita ei adjudicatur.

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ERRATA.

Page 7. Line 38, read *Heed*. p. 8. l. 34. r. *Ildeſtan*. p. 14. in the Margin, for *N. 10.* r. *Record 1.* p. 70. in the Margin, A. for King *Fobn* r. *Edward* 3. p. 82. in the Margin C. r. *not known, nor to be found.* p. 96. l. 5. blot out *to*. p. 98. l. 5. blot out *we*. p. 101. in the top add, *His first and ſecond Observations upon the whole Matter have nothing in them worthy a ſerious Conſideration.* p. 107. l. 40. r. *quosdam*. p. 123. l. 14. r. *Militia*. p. 125. l. 17. r. 25 of *Edw.* 1. 72 years. p. 127. l. 1. for *Plena* r. *completa*. p. 128. in the Margin r. *Appendix Record 2.* p. 129. r. *Stroford*. Ibid. l. 30. r. *Tenet*. p. 147. l. 6. r. *Bigamia*. Ibid. l. 18. r. *ſtirmly*. p. 170. l. 27. r. *no*. p. 172. l. 21. r. *qualicumq;* p. 190. l. 25. r. *Bayeux*. Ibid. l. 31. r. *primoribus*. p. 195. l. 2. r. *diſpoſita*. p. 225. l. 23. r. *Ingenuitatem*. p. 236. l. 33. r. *unweary*. Ibid. l. 37. r. *Effromery*. p. 238. l. 45. r. *adveniente*. p. 240. l. 20. for *Meins* r. *Mans*. p. 259. l. 29. r. *nullius*. p. 266. l. the laſt. r. *ſhould not cauſe*. p. 281. l. 26. r. *Nichilo*. p. 294. l. penult. r. *Cafe*. p. 339. l. 20. r. *privaretur*. p. 367. l. 24. for *Dum*. r. *Dominum*. Ibid. l. 26. r. *vivacitate*.

F